



SOUND IDEA: An inside look at audio pioneer Ray Dolby

How his business style kept him at the forefront of recording technology

Business, D1



SWEET SHOT: Stanford women win at buzzer, reach Elite 8

Kelley Suminski drills game-winning 3-pointer to lift sixth-seeded Cardinal to regional final

Sports, C1

SPORTS FINAL

San Francisco Chronicle

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MONDAY, MARCH 29, 2004

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Daniel Ellsberg sees a new trend — telling all while the issue is hot

By Matthew B. Stannard
CHRONICLE STAFF WRITER

When famous whistle-blower Daniel Ellsberg boarded a plane to Cincinnati earlier this week, he took along a little light reading: a stack of articles about former counterterrorism czar Richard Clarke, who has stirred controversy with allegations in his book and testimony before a special panel that the Bush White

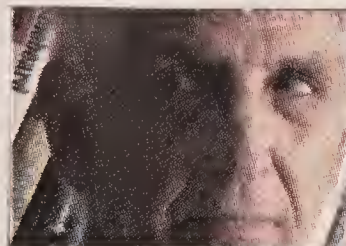
House was somewhat indifferent to al Qaeda before Sept. 11 and obsessed with Iraq afterward.

Ellsberg, who in 1971 leaked the Pentagon Papers documenting government misrepresentations about the Vietnam War, sees Clarke as part of a trend: well-placed individuals in the government who have gone public with books or interviews outlining their concerns and criticisms about their country's gov-

ernment — while that government is still in power.

Ellsberg is not alone in that observation — observers from across the political spectrum, whether they support Clarke's actions or not, agree that a new willingness exists to tell all far sooner, and far more publicly, than in the past.

Ellsberg cites officials such as Scott Ritter, the former lead inspector for the U.N. Special Com-



MARK COSTANTINI / The Chronicle

Daniel Ellsberg leaked the Pentagon Papers in 1971.

mission on Concealment and Investigations team, and Katharine Gun, a British government linguist who leaked an e-mail purportedly from U.S. intelligence services asking for help spying on U.N. ambassa-

► **TELLING ALL:** Page A7

Israelis rip their own intelligence on Iraq

Report calls weapons claim conjecture

By Peter Hermann
BALTIMORE SUN

JERUSALEM — Israeli officials overestimated the military threat posed by Iraq because of faulty intelligence that was derived from conjecture rather than based on fact, an investigation by Israel's parliament concluded in a report released Sunday.

A special parliamentary committee, basing its findings on eight months of closed hearings, recommended restructuring Israel's intelligence services, including the Mossad spy agency, but said there had been no deliberate attempt to falsify information about Iraq before the U.S. and British invasion of the country in March 2003.

Yuval Steinitz, chairman of parliament's Foreign Relations and

Defense Committee and head of the investigative panel, said Israel had played "a very minor role" in providing the justification for war, and the panel concluded that Israel's intelligence services and politicians had not conspired to mislead the public.

"Israel did not deceive," Steinitz said. "There are no signs of a deliberate deception or distortion of intelligence data. If mistakes were made, they were made innocently."

His committee criticized what it called an overlap in work by Israel's military intelligence agency and the Mossad, Israel's equivalent of the CIA. The committee recommended that the Mossad concentrate on foreign intelligence-gathering and that military intelligence narrow its focus to threats of war.

► **WEAPONS:** Page A5

► **Investigating 9/11:** Republicans join call for security adviser Rice to testify, but she stands firm, appearing only on TV shows to defend the administration.

A5



BRANT WARD / The Chronicle

Firefighters save historic Fisherman's Wharf shed

A firefighter breaks out a window of the burning Alioto-Lazio Fish Co. warehouse at Fisherman's Wharf on Sunday. The fish shed has

been the subject of a long and contentious legal fight between the fish company and the Port of San Francisco. See story on Page B1.

Prison-guard union's political clout

Plan to revisit labor contract faces heavy opposition from well-connected members

By Mark Martin
CHRONICLE SACRAMENTO BUREAU

SACRAMENTO — When Sen. Jackie Speier unveiled a strategy to force California's politically well-connected prison guards union to

redo its costly labor contract with the state, she faced immediate opposition from a lawmaker who is still a member of that union.

Assemblyman Rudy Bermudez, D-Norwalk (Los Angeles County), publicly quarreled with Speier, D-

Hillsborough, during a hearing earlier this month when the Bay Area senator said she planned to ensure the state would never "be burned again" by the kind of contract guards received in 2002, which is doling out big raises this year while California faces a giant budget deficit.

Bermudez said he was defending all state employee contracts when he attacked Speier's call for

the Legislature to overturn the guards pact. But Bermudez also is a former parole agent, who was one of those employees just two years ago. And an amendment to the contract, created specifically for Bermudez when he was elected in November 2002, allows him to return to his old job once he leaves elected office in Sacramento. It's a position that would enjoy the raises

► **PRISONS:** Page A4

Lawmakers tackle reforms; ballot measure threatened

By Tom Abate
CHRONICLE STAFF WRITER

Of all the crises in California, few touch as many lives and fortunes as the woes of the workers' compensation system.

Nearly 1 million claims are filed each year in a system that insures about 15 million workers against on-the-job injuries. California employers say they're being crushed by the nation's highest insurance premiums and want reforms to

curb soaring medical and disability costs.

"Right now, this workers' comp issue is just a wet blanket over the California recovery," said Jack Stewart, president of the California Manufacturers & Technology Association.

Lawmakers cut \$7 billion out of workers' compensation in 2003. But Gov. Arnold Schwarzenegger came into office saying the remaining \$22 billion system had to be whacked in half. Now he's gathering signatures for a reform initiative.

► **WORKERS COMP:** Page A10

► **Inside the issue:** The Chronicle interviews 6 directly affected by workers' comp.

A10, 11

✎ CAMPAIGN 2004 ✎

California a gold mine of donations for both Kerry, Bush



STEVE YEATER / Associated Press

Sen. John Kerry (right) meets the media upon his arrival in Sacramento for a California fund-raising swing.

State is No. 1 in contributions to Democrat, No. 2 for president

By Carla Marinucci
CHRONICLE POLITICAL WRITER

Republican President Bush and Democratic presidential hopeful Sen. John Kerry can't agree on jobs, taxes or Iraq. But they share documented affection for California — where both are frequent fliers to court deep-pocketed campaign donors.

Kerry arrived Sunday for a two-day campaign swing beginning in Sacramento. The Massachusetts senator, who just released a jobs and economic plan, will speak at a Sacramento job training center and appear at a

fund-raiser at the Westin St. Francis in San Francisco. On Tuesday, he'll head to San Diego and Los Angeles for campaign appearances and fund-raisers.

Kerry's trip comes just weeks after Bush concluded his most recent fund-raising swing through California, where he netted \$1.5 million in just over 24 hours with three events in Los Angeles and Santa Clara.

Even before Bush's March fund-raisers, he had generated \$12.1 million of his \$158.8 million in campaign money from California contributors — his largest total of any state except

his home state of Texas, according to the Center for Responsive Politics.

Kerry had raised \$3.8 million from California contributors of his \$41.4 million in campaign money as of March 1, the most money from any state, according to the center's analysis of federal campaign finance reports.

The crisscrossing of California by Kerry and Bush highlights the effort both major parties are making to generate campaign cash from one of the nation's richest donor bases — particularly the cutting-edge business crowd of Silicon Valley.

► **CAMPAIGN:** Page A8

IN SCIENCE



ENVIRONMENT
Defending Darwin's theory
UC scientists build a Web site to help teachers deal with creationist pressure.

A6

BAY AREA

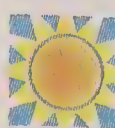
Teaching English 101 at San Quentin State Prison has revitalized her, a professor says.

B1

DATEBOOK

At the Shooting Gallery, nothing was as shocking as when the gallery owner was arrested.

E1



WEATHER

Mostly sunny. Highs: 60s and 70s; lows: 40s to 50s.

C10

Bridge/Chees.....E5
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Autos.....F6
Homes.....F9
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Obituaries.....B4
Television.....E7
Theater.....E2

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NATION
DIGESTAIDS on upswing
in Southern states

MIAMI — The number of people with HIV or AIDS has risen faster in the South than any other region of the country, and the problem will worsen without changes, the authors of a new study said Sunday.

The South accounted for only 38 percent of the U.S. population, but 40 percent of the country's AIDS cases in 2002, according to a report presented at the National HIV/AIDS Update Conference. The region also accounted for 46 percent of new AIDS cases between 2000 and 2002.

The report, which examined 17 Southern states and the District of Columbia, was prepared by Michelle Scavnicky, community relations director for the AIDS Institute, and Kim Williams, a researcher at the Centers for Disease Control and Prevention.

Scavnicky said that a growing number of people living in rural areas are being diagnosed with HIV and that there are more new infections among blacks and Hispanics.

CDC study discounts
benefit of stretching

WASHINGTON — Stretching does not live up to its reputation as an injury preventer, a study has found.

Athletes who stretch might feel more limber, but they shouldn't count on stretching to keep them healthy, said Stephen B. Thacker, director of the epidemiology program office at the Centers for Disease Control and Prevention.

The CDC combed research databases for studies that had compared stretching with other ways to prevent training injuries. Its report is in the March issue of the American College of Sports Medicine journal, Medicine and Science in Sports and Exercise.

People who stretched were no more or less likely to suffer injuries such as pulled muscles, which the increased flexibility that results from stretching is supposed to prevent, researchers found.

CHRONICLE NEWS SERVICES

COMING UP ON SF GATE

You can read these features this week exclusively on SFGate.com, the online partner of The Chronicle.

TODAY

► **Romania is Dog Hell.** Urban Animal

TUESDAY

► **Homeless Nation:** Cities like San Francisco are adopting plans that favor permanent housing over services. In Surreal Estate.

WEDNESDAY

► **April Fairs & Festivals:** Oyster & Beer Fest, Cherry Blossom weekends and Union Street Easter parade ahead. Get the details in bite sizes.

THURSDAY

► **Saxophonist** Charles Lloyd

A face only a lug could love



AARON HARRIS / Associated Press

A pug named Dewey slakes his thirst at Trinity Bellwoods Park in Toronto as pugs and those who love them hold a meeting of the

Toronto Puglug Club. The informal club gathers in various parks around the city once a month to celebrate the breed.

Air Force kept cadet after sex charges

He was accused
of other rapes before
and after conviction

By Robert Weller
ASSOCIATED PRESS

DENVER — An Air Force Academy cadet who had been accused of rape and threatened to crash a glider into a dining hall was allowed to remain at the school for several months, during which he was arrested for sodomizing a woman in a wheelchair and accused of raping another cadet, according to files obtained by the Associated Press.

Even after his arrest in Los Angeles for sodomy, the Air Force got cadet Doncosta Seawell released from custody and took him back to the academy, the files show. He was accused of rape by a fellow cadet three months later.

Seawell's alleged victims are among the women who have accused the academy of failing to prosecute sex offenders — allegations that helped lead to sweeping changes at the academy and to Defense Department investigations of sexual assault cases.

An investigation determined there had been 142 reports of sexual assault at the academy over the past decade, and some of the victims said they were punished for reporting the assaults.

Seawell, a senior cadet flight instructor and academy boxer, was expelled in October 2002. A court-martial sentenced him to two years' imprisonment for the attack on the civilian woman.

But he had come to the attention of academy investigators two years earlier, when a cadet said he sexually assaulted her. He denied it, and no charges were brought.

The next year, the flight instructor threatened to fly a glider into the building that houses the dining hall, according to a report by the Office of Special Investigations.

Seawell was charged with conduct unbecoming of an officer and gentleman and sent for a mental evaluation, according to files.

Two months later, on Dec. 28, 2001, he was arrested in Los Angeles for the attack on a woman in a wheelchair, whom he allegedly approached via the Internet.

It was then that Air Force investigators reviewed Seawell's record and found the report of the glider threat, according to the Office of Special Investigations.

Still, Seawell remained at the school for six months and allegedly approached freshman cadet Kira Mountjoy-Pepka by way of an Internet chat.

Mountjoy-Pepka accused Seawell of attacking her in April 2002. In interviews last year on ABC's "20/20" and on Oprah Winfrey's talk show, Mountjoy-Pepka said she was scolded by academy officials for being a "slut." No charges were filed in her case.

Academy spokesman Johnny Whitaker said privacy rules, as well as the presumption of innocence, may have played a role in Seawell's staying at the academy.

Seawell, meanwhile, is back in prison on the sodomy charge. He had been released on probation but was jailed again after being arrested for soliciting sex over the Internet from an undercover officer posing as a 14-year-old.

Last week, in an interview with the Gazette of Colorado Springs, Colo., from a military prison in San Diego, Seawell denied having sexual intercourse with Mountjoy-Pepka, but said they had engaged in sexual activity several times.

"I've never raped, maimed or intentionally caused anyone bodily harm," he told the newspaper.

The Office of Special Investigations' files say that Mountjoy-Pepka visited Seawell three times after the alleged rape and that there was some sexual activity. Legal analysts said this would have weakened any prosecution of Seawell.

Mountjoy-Pepka said Seawell had threatened to kill her.

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WORLD
DIGESTIslamic-rooted party
triumphs in Turkey

ANKARA, Turkey — Prime Minister Recep Tayyip Erdogan declared his pro-Western Islamic-rooted party victorious in elections Sunday — a victory that could encourage the Turkish leader to make more reforms toward membership in the European Union.

Erdogan's Justice and Development Party took about 40 percent of the vote and won key cities, including Istanbul, the largest, and Ankara, the capital.

Many Turks fear the Justice party may eat away at the country's strict secular laws, imposed by Kemal Ataturk, who built modern-day Turkey out of ashes of the Ottoman Empire after World War I.

But Erdogan has pledged support for secularism and Turkey's bid to join the European Union.

Vatican revises policy
on sex abuse cases

VATICAN CITY — The Vatican, implementing a change in the way it handles clerical sex abuse cases and other crimes against church law, has begun delegating cases that normally would have gone straight to the pope instead to his orthodoxy watchdog, the Congregation for the Doctrine of the Faith.

The congregation tribunal that handles such cases involving lower-ranking prelates is expanding to include crimes involving bishops, cases which had previously been decided by the pope.

The crimes include the sexual abuse of minors and crimes concerning the confessional, such as soliciting sex from someone who has come to a priest for confession.

The pope decided to refer all such cases — including those implicating high-ranking churchmen — to the Congregation because it has more experience in dealing with them.

Tough smoking ban
begins in Ireland

DUBLIN, Ireland — Smokers in local pubs enjoyed their final, bittersweet puffs Sunday as Ireland prepared to impose the world's most comprehensive ban on tobacco use in the workplace.

The ban, effective at the stroke of midnight, will bring hefty fines on any business that permits smoking indoors — a crackdown causing equal measures of pain and joy. But opinion polls have indicated most Irish adults support the government crusade against tobacco.

CHRONICLE NEWS SERVICES

CORRECTIONS

► A photo caption that ran with a story in Saturday's Bay Area section about affordable housing in Pittsburg misidentified the owner of a power plant in the photo. The plant is owned by Mirant Corp.

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honestly. It is our policy to correct significant errors of fact or misleading statements. Please write to Corrections, San Francisco Chronicle, 901 Mission St., San Francisco, CA 94103; send an e-mail to corrections@sfchronicle.com or call (415) 777-7870.

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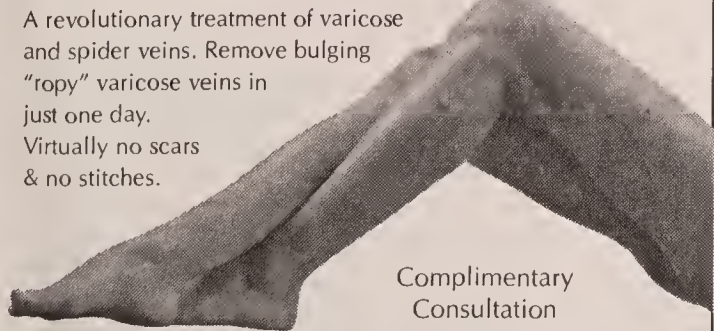
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NATION & WORLD

Arab League cancels summit on reform

Collapse reveals divide on civil rights, economic modernization

By Daniel Williams
WASHINGTON POST

TUNIS, Tunisia — Foreign ministers were hammering out a list of political reforms in advance of an Arab League summit when their Tunisian counterpart, Habib Ben Yahya, left the room and took a phone call from the host president. He returned, participants said, and told everyone to go to dinner.

"It's over," Yahya told the gathering late Saturday night. "There is no summit."

The surprise cancellation of the long-awaited meeting on reform and Middle East peace set off a round of recrimination and finger-pointing. On Sunday, delegates expressed embarrassment and shock at the collapse, which took place two days before the summit was set to begin in the Tunisian capital.

"This was not our finest moment," said Arab League General Secretary Amr Moussa.

Several participants complained that the host president, Zine Abidine Ben Ali, had single-handedly sunk the effort in a fit of pique. He was angry, they said, because his own reform proposals had been rejected and because several countries had decided not to send their heads of state to the summit.

Other participants said the exercise was already doomed — the countries were far from agreeing on the scope of reforms, not to mention ways to implement them.

"Many were hesitant in the first place, so things were always delicate," said Nabil Shaath, the Palestinian representative. "Weighty reform proposals were just going to be used as doorstops anyway."

The Arab League, a 22-member organization dedicated to unity but which frequently exhibits divisiveness, is in a race against time. The Bush administration hopes to gain support for a democratic reform initiative for the Middle East at a meeting of the Group of Eight



REMY DE LA MAUVINIÈRE / Associated Press

Amr Moussa, the Arab League secretary general, said the summit's unexpected cancellation was "not our finest moment."

industrialized nations this summer. Arab leaders had expressly set out to pre-empt the proposal with plans of their own in areas including civil rights, women's rights and economic modernization.

In Cairo, Egypt's President Hosni Mubarak quickly offered to host a new summit, but no date was set. In a statement, Mubarak,

who is scheduled to visit Washington next month, expressed "astonishment and regret" at the cancellation of summit. Jordan also offered to host a retry.

Arab societies have been simmering over the issue of democratization, partly in the wake of a wave of terrorism around the world that Arab Muslim citizens have been accused of spearhead-

ing. The war in Iraq has also upset the region, with U.S. officials implying that lack of democracy in the Middle East is in itself a danger.

The varied Arab response to this ferment was on vivid display at the preparatory meetings for the summit on Friday and Saturday, participants recounted. Syria and Saudi Arabia fought against the inclusion of the word democracy in a summit paper that was be ratified Monday. Egypt gave assurance that no timetable or methodology for implementation would be attached.

Tunisian officials made a pitch to include language that explicitly endorsed democracy and rejected "extremism, fanaticism and terrorism."

"Not only is the concept of democracy absent, so are other equally important ones like civil society, dialogue of the civilizations, the fight against terrorism," the government said in a statement issued to explain the break-up of meeting. The statement said some countries supported Tunisia's position, but others "unfortunately opposed."

Shaath said the Tunisian proposals had not been discussed. "It

would have opened a new can of worms," he said.

In any event, as the foreign ministers scurried to arrange for flights home, many expressed perplexity at Ben Ali's dismissal. "I don't understand why our brothers in Tunis decided to do this," said Abu Bakr Qirbi, Yemen's foreign minister.

Moussa, the league's general secretary, said his request to meet with Ali was rebuffed. "Our request could not be granted due to the fact that it was too late for the president who has been down with a bad cold," Moussa said.

The summit's demise torpedoed plans to revive a two-year-old pan-Arab peace proposal that offered Israel recognition in return for its withdrawal from the West Bank and Gaza Strip. The league had also planned to criticize Israel's prime minister, Ariel Sharon, for ordering assassinations, including that of Sheik Ahmed Yassin, the spiritual leader of Hamas, a militant organization responsible for numerous bombings of civilians in Israel. "Now the message we are sending is that Sharon can do what he wants," said Jean Obeid, Lebanon's foreign minister.

U.S. forces slam door on Baghdad newspaper

Furious protesters say move runs counter to democracy

By Jeffrey Gettleman
NEW YORK TIMES

BAGHDAD — American soldiers shut down a popular Baghdad newspaper on Sunday and padlocked the doors after the occupation authorities accused it of printing lies that incited violence. Thousands of outraged Iraqis protested the closing as an act of American hypocrisy, laying bare the hostility many feel toward the United States a year after the invasion that toppled Saddam Hussein.

"No, no, America!" and "Where is democracy now?" screamed protesters who hoisted banners and shook clenched fists in a hastily organized rally against the closing of the newspaper, Al Hawza, a radical Shiite weekly.

The rally drew hundreds and then thousands by nightfall in central Baghdad, where masses of angry Shiite men squared off against a line of U.S. soldiers who arrived to seal off the area.

The closing of the newspaper reflected the struggle by American authorities to strike a balance between their two main goals — encouraging democracy while maintaining stability, as the days wind down to the June 30 target date for handing sovereignty back to the Iraqi people. But security

seems increasingly elusive.

On Sunday, Nasreen Barwari, a Kurd appointed by U.S. officials as head of the Ministry of Public Works, narrowly escaped an assassination attempt in the northern city of Mosul, and two foreign workers were shot to death nearby in front of a power plant.

The charred bodies of a Briton and his Canadian colleague were found splayed on the asphalt beside their burning, bullet-riddled sport utility vehicle on a highway on the east side of the city. The men were part of a security detail assigned to protect foreign engineers operating a nearby power plant for General Electric, according to U.S. officials.

Many Iraqis said that closing down a popular newspaper at such a critical time would not curtail anti-occupation feelings but only inflame them.

"When you repress the repressed, they only get stronger," said Hamid al-Bayati, a spokesman for the Supreme Council for Islamic Revolution in Iraq, a prominent Shiite political party. "Punishing this newspaper will only increase the passion for those who speak out against the Americans."

American authorities said the Hawza newspaper may reopen in 60 days. The paper's editors, however, said they had been essentially put out of business.

"We have been evicted from our offices and we have no jobs," said Saadoon Mohsen Thamad, a news editor, as he stared at a hefty padlock hanging from the front gate. "How are we going to continue?"

Among Iraqi journalists, Al Hawza was known for printing wild rumors, especially anti-American ones. The paper is considered a mouthpiece for Muqtada al-Sadr, a fiery young Shiite cleric and one of the most outspoken critics of the United States. The letter ordering the paper closed, signed by Paul Bremer, the top administrator in Iraq, cited what the American authorities called several examples of false reports in Al Hawza, including a February dispatch that said the cause of an explosion that killed more than 50 Iraqi police recruits was not a car bomb, as occupation officials had said, but an American missile.

Under a law passed by occupying authorities last June, a news organization's license can be revoked if it publishes or broadcasts material that incites violence or civil disorder or "advocates alterations to Iraq's borders by violent means."

But the letter outlining the reasons for taking action against Al Hawza did not cite any material that directly advocated vio-



KARIM KADIM / Associated Press

Iraqi children peer into the car of a police official that was bombed in a Baghdad neighborhood. No one was hurt in the early morning explosion.

lence. Several Iraqi journalists said that meant there was no basis to shut Al Hawza down.

"That paper might have been anti-American but it should be free to express its opinion," said Kamal Abdul Karim, night editor of the Azzaman daily paper.

Omar Jassem, a freelance reporter, said he thought democracy meant many viewpoints and many newspapers.

"I guess this is the Bush edition of democracy," Jassem said.

Tom Rosenstiel, vice chairman of the Committee of Concerned Journalists, a nonprofit organization based in Washington, said

there was a basic irony in Americans practicing censorship in Iraq.

"If you're trying to promote democracy in a country that has never had it, you have to lead by example," Rosenstiel said. "I'm not in Iraq. But it's hard for me to see how the suppression of information, even false information, is going to help our cause."

In July, American authorities closed down another newspaper for similar reasons, provoking

similar demonstrations. Two Arabic television networks have also been sanctioned for coverage considered irresponsible.

The most recent U.S. military death was identified as:

► Army Staff Sgt. Wentz Jerome Henry Shanaberger III, 33, Naples, Fla.; killed Wednesday in Iraq in an insurgent attack; assigned to the Army's 21st Military Police Company, 16th Military Police Brigade, XVIIIth Airborne Corps; Fort Bragg, N.C.

Pakistan-Afghan border battles end

Officials claim victory, but political fallout widens

By Pamela Constable
WASHINGTON POST

ISLAMABAD, Pakistan — A deadly, 12-day confrontation between government troops and Islamic fighters in a remote tribal region reached a peaceful settlement Sunday, after the militants released 12 paramilitary troops held hostage for more than a week, and soldiers began pulling out of the area.

Officials claimed victory in the operation in South Waziristan, a rugged tribal area near the Afghan border, in which 5,000 troops participated in Pakistan's largest-ever anti-terrorist raids. They said the government had killed 60 foreign militants or their local supporters, arrested 163 others and dismantled a nest of "hardened miscreants."

But even as calm was restored, political fallout from the episode continued to widen. The operation, which left 130 people dead, has embroiled the government in a controversy that pits tribal traditions and religious passions against the need to establish state

authority across Pakistan and root out Islamic terrorism from the region.

Initially, officials hoped the Waziristan operation would yield important members of the al Qaeda terrorist network, who they believed were being sheltered in village compounds. President Pervez Musharraf, who is also the army chief, heightened such expectations by hinting last week that his troops were zeroing in on a "high-value target."

But by Sunday, government forces had still not identified any senior terrorist figures among the captured or killed fighters, and a number of others appeared to have escaped. Analysts said the ambitious operation was marred by poor intelligence, hasty planning and mistrust between officials and tribal leaders. The grimmest development came Friday, when eight captured Pakistani soldiers were found executed in a ditch.

The protracted operation has drawn increasingly vocal and widespread public criticism. Tribal groups accustomed to self-rule protested the military intrusion into their way of life and vented their anger with scattered rocket and grenade attacks on government targets. Muslim politicians called Musharraf a traitor to Islam and a slave of the

United States, while secular parties staged a walkout from parliament.

"Some people are playing politics, but there has also been a genuine sense of outrage," said Rifaat Hussain, a scholar who specializes in defense issues. "This has given the army a bloody nose and a black eye." Many Pakistanis support the war against terrorism, and there was an outpouring of sympathy for Musharraf after he was nearly assassinated twice in December. But there is a competing public perception that the army chief has bowed to U.S. pressure at the expense of Pakistan's political and religious sovereignty.

Azizuddin Ahmad, a columnist for the Nation newspaper, wrote Thursday that the government was being pushed to produce a "dazzling achievement," such as capturing Osama bin Laden or another senior al Qaeda leader, to help President Bush win re-election, "irrespective of the price our citizens have to pay."

In northwestern Pakistan, where conservative Islamic values and informal but harsh tribal codes govern daily life, there is also a radically differing perception of the foreign Muslim militants in Waziristan, including Chechen, Uzbek and Arab fight-

ers, whom Western and Pakistani officials have called criminals and terrorists.

Experts and tribal leaders described the militants as longtime residents who had participated in the U.S.-backed Afghan guerrilla war against Soviet occupation in the 1980s, then settled in Pakistan, bought land and married into local tribes.

"The Americans and Pakistanis brought these people among our tribes," Mohammed Mirajuddin, a legislator and Islamic cleric from South Waziristan, said on a television news program. "They are humble people who just want the right to live. We can ask them to surrender, but if you want to hand them over to the United States . . . and shave off their beards, we will never help."

Maj. Gen. Shaukat Sultan, Pakistan's military spokesman, said the government had repeatedly offered amnesties to the militants and waited for local elders to negotiate settlements with them.

But several tribal leaders said that by staging surprise raids inside their territory, the army had sabotaged the talks and offended tribal traditions of self-rule. They also said many tribes felt compelled to protect foreign "guests" who lived among them.

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AGTA

Guards union braced for contract battle

► PRISONS

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and generous pension benefits the contract calls for.

The California Correctional Peace Officers Association has long been one of the most powerful players in Sacramento because of its lavish spending on political campaigns. But a close look at the union's other connections shows a well-entrenched special interest that is positioned to have tremendous impact on efforts to reform California prisons, as well as affecting efforts by Speier and Gov. Arnold Schwarzenegger to reopen the guards' contract.

► An official who is expected to be a key negotiator for the state if the guards' contract is reopened said at a Senate hearing earlier this month that he may return to a previous job at Folsom State Prison, where he would be paid under the terms of the contract.

► A union lobbyist who joined the state Senate as a staffer worked on warden confirmations and at least two bills that were priorities for the union. He left the Senate and is now back earning money from the union.

None of these relationships seems to violate state conflict-of-interest laws, but many government watchers find them troubling.

"These don't appear to be legal questions, but they are legitimate ethical issues: Where do these people's loyalties lie?" asked Bob Stern, executive director of the Los Angeles-based Center for Governmental Studies.

Bermudez said he sees no reason to recuse himself from any legislative vote on the contract, noting he has received legal advice allowing him to make decisions on prison issues despite his past — and future — job. "I was defending all contracts the state has with employees," he said in a later inter-



RICH PEDRONCELLI / Associated Press January 2004

State Sen. Jackie Speier of Hillsborough (right) questions Mike Jimenez, head of the prison guards union, at a January hearing.

view. "The point is, we can't go back on contracts that have already been signed."

While Bermudez said he represents the residents of his Los Angeles area district, not the union of which he remains a dues-paying member, he nonetheless took an unusually prominent role in defending the union's contract at Speier's March 4 Senate hearing. Members of the Assembly rarely sit in on Senate hearings.

Finance officials now say the deal, approved by lawmakers and Gov. Gray Davis two years ago, will add as much as \$2 billion to prison

costs by giving guards potentially more than 37 percent raises over the life of the five-year pact.

Should Speier or the governor succeed in getting the union back to the bargaining table, they will find a familiar face.

Tim Virga, a former counselor at Folsom State Prison who was once the Folsom chapter president of the guards union, would be a key negotiator for the state.

Virga now works for the Department of Personnel Administration, and Schwarzenegger officials confirm he would be a negotiator for the state in contract talks.

At the March 4 Senate hearing, Virga told lawmakers he someday might return to his old job at Folsom, where he would work under the terms of contract he may help redesign.

"Tim Virga has a conflict of interest," Speier said. "He should not continue."

Virga did not want to be interviewed for this story.

As spokeswoman for Schwarzenegger, Terri Carbaugh, however, said that the governor had "full faith and confidence in Mr. Virga," and that he had "great insight" into the bargaining unit he may be negotiating with.

Ryan Sherman also had insight into the union.

Sherman first went to work for the union in 1995 and became a registered lobbyist for the prison guards in 1999.

He left his union job in May 2001 to go to work for state Sen. Gloria Romero, D-Los Angeles.

In one example of union synergy inside the Capitol, Sherman helped Romero carry union legislation that would have made it difficult for private prisons — which employ nonunion workers — to construct new jails in California. In an interview, Sherman acknowledged that he wrote the bill as a lobbyist for the union before joining Romero.

Sherman also helped Romero in her job as a member of the Senate's Rules Committee, which among other things has the power to OK or deny gubernatorial appointments, including prison wardens — a key position that has a dramatic impact on rank-and-file union members.

During Sherman's stint with Romero, the committee confirmed 21 wardens.

Critics of the state's prison system have long complained that the union has used its political clout to greatly influence who becomes a warden.

Both Sherman and Romero in-

sist that while he was working for the senator, his loyalties were with her.

"He worked for me, not the union," Romero said.

State records show that wasn't always true.

According to state records, Sherman, who runs a separate political consulting firm, was paid \$500 from the union while working for Romero. The union also spent \$600 to fly him to a conference.

Since leaving Romero's staff in November 2002, Sherman acknowledged he has done more consulting work for the union.

Sherman's interactions with the union are not unusual.

Lawmakers and their staffs are wined and dined by special interests nightly in Sacramento. Staffers can have outside employment, as long as their legislative duties do not have a direct economic impact on their other employer.

And the revolving door between government and big-time Capitol players is wide open, even under a

new governor who vowed not to be beholden to special interests. Consumer groups howled when Schwarzenegger chose a Chamber of Commerce lobbyist and an executive for an HMO to be key members of his inner circle, for example.

Stern, the good-government watchdog, noted there's nothing inherently wrong with politicians employing people with the same beliefs who happen to have worked for industries or causes that are affected by decisions made in the Capitol.

Union critics, however, say the union, through its contributions and personal connections, has unfair clout in Capitol discussions involving crime and punishment.

Sherman said he didn't talk that much with union leaders while working in the Senate.

"I had a pretty clear understanding of what (the guards union's) interests were," he said.

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Rice firmly refuses to testify publicly at 9/11 panel

Expert calls White House strategy 'a huge mistake'

CHRONICLE NEWS SERVICES

WASHINGTON — National security adviser Condoleezza Rice, at the center of a controversy over her refusal to testify before the Sept. 11 commission, reiterated on Sunday her determination not to give public testimony and said she could not list anything she wished she had done differently in the months before the 2001 terrorist attacks.

Administration officials were searching for a compromise Sunday night with the commission that would limit the political damage from her refusal to testify. But a defiant Rice gave no hint of that as she defended the Bush administration's counterterrorism performance on CBS' "60 Minutes" — the same venue used a week earlier by former White House counterterrorism chief Richard Clarke to launch his criticism that the Bush administration did too little on terrorism before Sept. 11 and wound up strengthening al Qaeda by pursuing war in Iraq.

Rice's appearance, and that of two other top Bush officials on the airwaves Sunday, came at the end of a week in which the Bush administration labored to discredit Clarke, who challenged the White

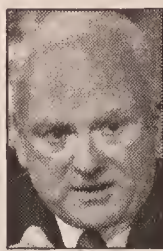
House on Sunday to release more classified documents.

Rice, the top foreign-policy official in President Bush's White House, brushed aside the notion that the U.S. government should apologize to Sept. 11 victims' families for not stopping the attacks, saying, "It's important that we keep focused on who did this to us." Rice asserted that "we are safer today than we were on September 10th," and, asked whether there were any mistakes or misjudgments before the attacks, replied: "I think we did what we knew how to do."

But the Bush adviser gave no ground on the administration's decision that she will not appear in public before the committee or testify under oath because Bush officials believe doing so would compromise the constitutional powers of the executive branch. The renewed refusal came despite the commission's unanimous plea for her testimony.

"Dr. Rice has appeared everywhere except my local Starbucks," said Richard Ben-Veniste, a member of the commission.

Republican commissioner John F. Lehman, who has written extensively on separation-of-powers issues, said "the White House is



Richard Clarke



Condoleezza Rice



Colin Powell



Donald Rumsfeld

making a huge mistake" by blocking Rice's testimony and decried it as "a legalistic approach."

"The White House is being run by a kind of strict construction of interpretation of the powers of the president," Lehman said on ABC's "This Week." "There are plenty of precedents that the White House could use if they wanted to do this."

Rice said she has "absolutely nothing to hide" and "would really like" to testify but will not because of the constitutional principle.

While the White House privately sought a compromise over Rice, Clarke called for a more extensive declassification of government documents from before the Sept. 11 attacks. Senate Majority Leader Bill Frist, R-Tenn., saying Clarke may be guilty of perjury, last week called for declassifying testimony Clarke gave a congressional committee in 2002 that was favorable toward the Bush administration.

Clarke said he would support declassifying the earlier testimony

as long as it was not done selectively. Clarke, appearing on NBC's "Meet the Press," also said Rice's testimony before the Sept. 11 commission should be declassified, as well as a key memo he gave Rice on Jan. 25, 2001, the national security directive on al Qaeda developed eight months later, and all e-mails Clarke sent to Rice and her deputy.

Secretary of State Colin Powell, speaking on CBS' "Face the Nation," said he would have no problem with the declassification of the national security directive.

Clarke insisted there is no inconsistency between the testimony he gave the commission last week and his still-classified 2002 testimony. He said his critical book should be believed over his previous statements flattering Bush's counterterrorism efforts "because I have no obligation anymore to spin."

Clarke said that by invading Iraq, the Bush administration built support for al Qaeda by inflaming Islamic opinion, diverted

resources from the hunt for Osama bin Laden and spent money that could have been better used to fortify domestic security. While saying he expects bin Laden will be killed or captured this year, he warned: "We're going to face a second generation of al Qaeda."

In their bid to counter Clarke's allegations, three administration officials gave televised interviews Sunday to argue that they did more on counterterrorism before Sept. 11 than Clinton had done. Powell pointed to Bush taking direct briefings almost every morning from CIA Director George Tenet as "something President Clinton had not been doing." Rice said Tenet briefed Bush 46 times on al Qaeda.

Defense Secretary Donald Rumsfeld, on ABC's "This Week," disagreed with Clarke that going to war in Iraq hurt the overall war on terrorism. Asked about charges by Clarke and others that CIA and Army Special Forces units, with key personnel who spoke Arabic, were moved from Afghanistan in early 2002 and sent to help prepare the invasion of Iraq, Rumsfeld said, "I don't think that is accurate."

The same Special Forces unit that was used to search for Saddam Hussein was redeployed a month ago to Afghanistan to support the search for bin Laden.

Meanwhile, the White House acknowledged Sunday that on the day after Sept. 11 attacks, Bush

pressed Clarke to find out whether Iraq was involved.

Bush wanted to know "did Iraq have anything to do with this? Were they complicit in it?" Rice said on "60 Minutes."

Bush was not trying to intimidate anyone to "produce information," she said. Rather, given the United States' "actively hostile relationship" with Iraq at the time, he was asking Clarke "a perfectly logical question," she said.

The conversation — which the White House suggested last week never took place — centers on perhaps the most volatile charge that Clarke has made public in recent days: that the Bush administration became fixated on Iraq and Saddam Hussein at the expense of focusing on al Qaeda's role in the terrorism.

In his new book, "Against All Enemies," Clarke recounts that the president pulled him and several other aides into the White House Situation Room on the evening of Sept. 12, 2001, and instructed them "to go back over everything, everything. See if Saddam did this. See if he's linked in any way."

Last week, the White House said it had no record that Bush had even been in the Situation Room that day and said the president had no recollection of such a conversation. Although administration officials stopped short of denying the account, they used it to cast doubt on Clarke's credibility.

Report dismisses idea Israel tried to push allies into war

► WEAPONS

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The committee also prepared a more detailed, classified version of its report.

Steinitz said American and British officials had little need for Israeli intelligence in the months before the invasion, because they could spy on Iraq from bases in neighboring countries and rely on spy flights.

Israeli leaders, who were strong advocates of the war, repeatedly said they believed that Iraqi leader Saddam Hussein possessed chemical and biological weapons, infor-

mation that was shared with allied countries as the push for an invasion mounted. No such weapons have been found.

The Israeli panel concluded that the government, based on the information available at the time, acted reasonably when, in the weeks before the war, it activated civil defense measures, inoculated 17,000 emergency workers against smallpox and ordered citizens to prepare sealed rooms in their homes as protection against chemical or biological attacks.

But the committee questioned how Israeli intelligence agencies concluded after the 1991 Persian

Gulf War that Iraq had no more than two missile launchers and two dozen missiles capable of reaching Israel, then reported much higher numbers in the months before the war last year.

"The closer the war became, we had more information about dozens of missiles," Steinitz, a member of Prime Minister Ariel Sharon's right-wing Likud Party, said Sunday. "In the days before the war, we had information that Iraq had a minimum of 50 and up to 100 missiles."

He said those inflated assessments were made public "without finding any data to justify the

change in estimates." During the war and its aftermath, no missiles aimed at Israel were found.

The report criticizes the intelligence agencies for repeatedly "stating as facts" both Iraq's possession of unconventional weapons and its ability to use them. "The question that really bothered us was why we relied on estimates rather than hard evidence," Steinitz said.

In many cases, Steinitz said, questionable intelligence that Israel gave other countries ended up returning to Israel in repackaged form, and officials wrongly assumed their sketchy information

had been corroborated.

"This is a failure that we should be very careful about," he said.

The committee criticized Israeli intelligence agencies for missing altogether Libya's development of weapons of mass destruction. Israel was unaware of it, the committee said, until Libyan leader Moammar Khadafy announced his decision to dismantle the weapons program.

The committee heard testimony in closed sessions from 50 witnesses, including Sharon. The last such inquiry into intelligence-gathering failures was after surprise attacks by Egypt and Syria

began the 1973 Arab-Israeli war.

Before the invasion of Iraq, Israeli military officials repeatedly warned that missile launchers had been detected in western Iraq, and that there was a high probability missiles would be fired at Israel before or during the war.

Parliament member Haim Ramon, of the opposition Labor Party, served on the investigative committee and delivered a minority report, disagreeing that the government acted reasonably. Ramon concluded that the intelligence errors undermined people's trust in their leaders and wasted tens of millions of dollars.

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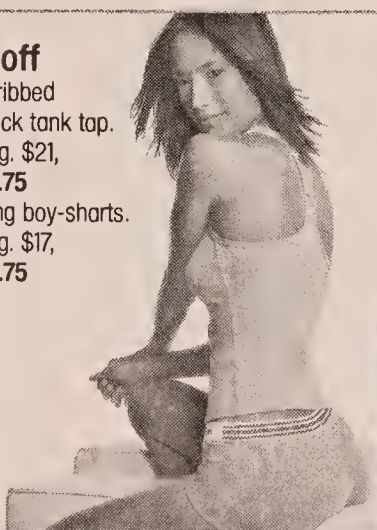
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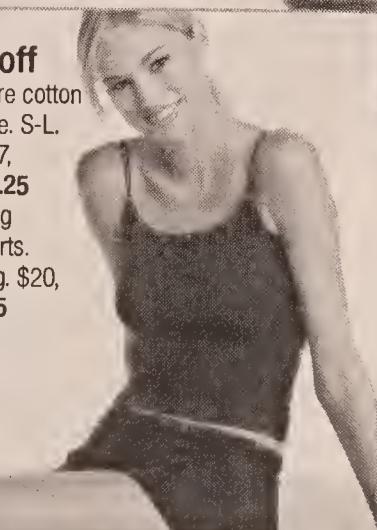
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SCIENCE

Evolution education down to a science on Web

UC Berkeley experts offer advice on facing 'pitfalls'

By David Perlman
CHRONICLE SCIENCE EDITOR

As controversies simmer across the country over teaching evolution, scientists at UC Berkeley are taking the offensive against the modern-day foes of Charles Darwin.

Experts at the university's Museum of Paleontology have created a new Web site designed to offer beleaguered classroom teachers support and guidance through the often slippery attacks they can encounter teaching natural selection and other concepts.

The site, at evolution.berkeley.edu, grew out of a conference that the museum hosted four years ago at which representatives from virtually every national scientific and education organization gathered to consider the growing pressures against evolution curricula.

"We realized we really needed to put new resources into teachers' hands, and that's how the idea of using the Internet emerged," said David Lindberg, chairman of Berkeley's Department of Integrative Biology and former director of the paleontology museum.

The Web site was developed with a \$460,000, three-year grant from the National Science Foundation, and its creators have another \$380,000 grant — this time from the Howard Hughes Medical Institute — to develop a version for the general public and another for students.

The new site offers a basic course in the methods of science and, in particular, the mechanics of evolution. It provides a history of evolutionary thought and discusses "misconceptions" and "pitfalls" that teachers may confront in explaining evolutionary concepts.

"Evolution, simply put, is descent with modification," the Web site states in its introduction. "Through the process of descent with modification, the common ancestor of life on Earth gave rise to the fantastic diversity that we see documented in the fossil record and around us today."

"Evolution means that we're all distant cousins: humans and oak trees, hummingbirds and whales."

Lindberg said the site tries wherever possible to show how evolution affects people in everyday life, and he offers flu shots as an example. "The power of the flu vaccine doesn't just wear out year by year," he explains. "But we need new shots each year because new species of the flu virus continually evolve that are resistant to the previous year's strains of the virus that

are used in the shots."

Scientists often argue about the detailed processes in evolution — whether new species emerge slowly or rapidly, or whether Darwin's concept of "natural selection" is the only mechanism for change over time — but they consider evolution itself to be a fact as solid as gravity or the round Earth.

Opponents, however, insist evolution cannot fully explain how long life has flourished and how its manifold species have come to be. Some are avowed "creationists" who hold the Bible and Genesis as literally true, while others believe in "intelligent design" — a view that humans, and indeed all organisms, are so complex that only some unknown intelligence must be guiding at all.

Intelligent design advocates include a small body of credentialed scientists. In the past few years, they have virtually supplanted the creationists in dominating the controversies that are ongoing in cities and states from Georgia to California.

Experts at the National Center for Science Education, based in Oakland, say that the teaching of evolution in public schools is under active attack in at least four state legislatures, four state departments of education and five local school boards, including one in the Sacramento suburb of Roseville.

Last month, Larry Caldwell, a Roseville attorney representing a small group of parents, renewed a yearlong dispute over teaching evolution there by filing a complaint against the local Union High School District. Caldwell's complaint contends that the district has unconstitutionally refused to provide students with access to what he maintains are "all sides" of a legitimate scientific debate.

He insists he merely wants Roseville high school biology teachers to "help students develop critical thinking skills in relation to science, by introducing them to scientific evidence that poses challenges to evolutionary theory, as well as scientific evidence that supports evolutionary theory."

To Caldwell, the dispute is basically over the school district's refusal to allow teachers to expose students to what he calls a "dissenting scientific viewpoint" over evolution as opposed to the "orthodox scientific viewpoint," and to provide them with a textbook challenging the standard concepts of evolution.

But Eugenie Scott, executive director of the National Center for Science Education, which is dedicated to "defending the teaching of evolution in the public schools," insists Caldwell's motives are suspect.

"Evolution is a science, a fact,

and it's not something to vote on," Scott said in an interview. "When alternate views on evolution are proposed to be taught, they must be about accepted scientific alternatives, and they need to be appropriate to the knowledge base of the students. Caldwell's proposal in Roseville doesn't meet either of these criteria."

"Let's be grown up about this: We're talking God in this dispute, not real issues in science," Scott continued. "That's what's really unconstitutional about debates over teaching evolution in Roseville."

Caldwell said in an interview that he supports the intelligent design view of how life's complexity has arisen, but seeks only to have that view and others that challenge "orthodoxy" represented in impartial biology classes. The Roseville high school district, Caldwell argues, is unconstitutionally excluding supplemental evolution materials from biology classes.

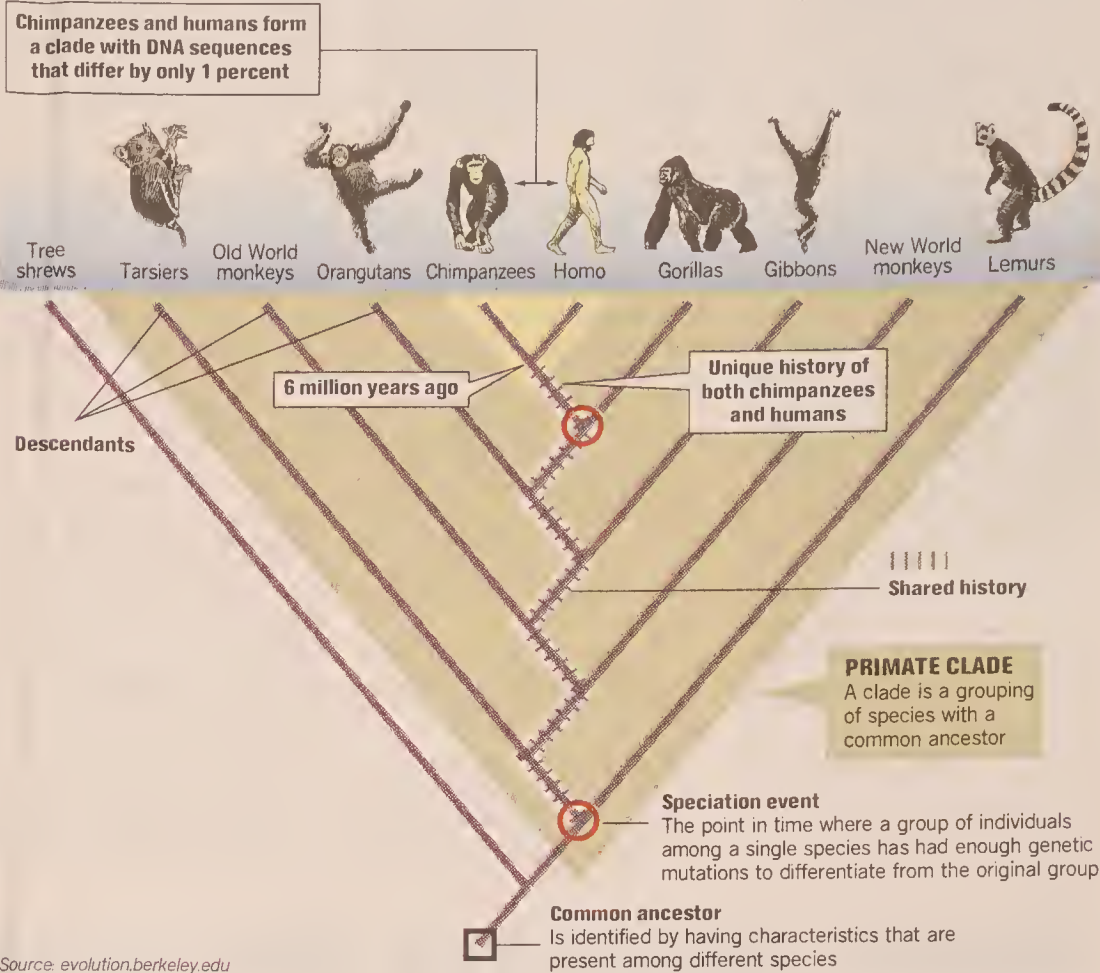
The new UC Berkeley Web site on evolution contains entire sections on "potential pitfalls" and "overcoming roadblocks" that teachers may encounter as they teach evolution.

To overcome one roadblock, for example, teachers are urged to point out to students that "there are no alternative scientific theories to account for the observations explained by evolutionary theory. Alternative 'theories' that have been proposed for insertion into the science curriculum have not been supported by valid science and are often based on belief rather than science."

And a "potential pitfall," the Web site notes, might come when a student asks whether a biology teacher "believes" in evolution. The recommended answer: "No, I accept the fact that the Earth is very old and life has changed over billions of years because that is what the evidence tells us. Science

Understanding phylogenies

A phylogeny is similar to a family tree, but shows the evolutionary relationships among organisms. The root of the tree represents the ancestral lineage, and the tips represent the descendants. As you move upward from the roots to the tips, you are moving forward in time. Over time, a group of one species sometimes splits; — a speciation event. When a group of one species is isolated from the original group for whatever reason, its gene pool becomes limited and mutations change the group. After hundreds of generations, the group has genetically changed to the point that mating with the original group would produce inviable eggs. Phylogenies can also be used to describe the relationships of all life forms.



JOHN BLANCHARD / The Chronicle

is not about belief — it is about making inferences based on evidence."

To Caldwell, the entire Web site is "a shocking misuse of the University of California's resources," and proof that UC's only aim is to "indoctrinate" students rather than offer them legitimate education.

But Judith Scotchmoor, director of education at the UC paleontology museum, said the new Web site is not about indoctrination or religion. Rather, she said, it is a "nonconfrontational way to help biology teachers cope with the

confusions their students may have about evolution, and to help students understand the difference between science and religion in the controversies over evolution

that keep endlessly cropping up in schools all over the country."

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SCIENCE DIGEST

Comet may not have killed off dinosaurs

A team of researchers is challenging the widely accepted notion that a powerful impact by an object from outer space that hit in what is now Mexico caused dinosaurs to become extinct 65 million years ago.

The Chicxulub impact, which created a crater 112 miles across, appears to have occurred about 300,000 years before the mass extinction, according to a study this month in the Proceedings of the National Academy of Sciences.

Scientists recovered samples to a depth of nearly 1 mile from a site in the Chicxulub crater. Geological time can be measured by depth: The deeper the sample, the older the material is likely to be.

They were able to link sediment at a depth of about 2,600 feet to the K-T boundary — the point at which the dinosaurs went extinct. Materials linked to the Chicxulub impact, however, lay about 20 inches below this — a disparity that translates into hundreds of thousands of years, said the scientists, led by Princeton University's Gerta Keller.

They suggested that other asteroid impacts, including the Shiva crater in India; volcanic activity; rising greenhouse gases; and other ecological changes may have helped trigger the extinctions, in a process much less dramatic than the imaginings of Hollywood.

"This finding suggests the K-T

boundary impact (and volcanism) may have been the straw that broke the camel's back, rather than the catastrophic kill of a healthy thriving community," the scientists wrote.

Mystery of pharaohs' favorite wine solved

The ancient Egyptians clearly appreciated wine. The walls of various noblemen's tombs were decorated with images of grape growing and wine-making, and clay wine jars have been recovered from temples and tombs — some even bearing the vintner's name.

But for scholars of ancient Egyptian enology, one question has remained frustratingly unanswered: Was it red, or was it white?

Now, Spanish researchers have settled the issue, using highly sophisticated tools of analytic chemistry to determine that the residues at the bottom of an urn buried with King Tutankhamen indicated (the envelope please): a red.

The team also got permission to test three ancient jars in the British Museum.

The researchers tested the King Tut jar residue for syringic acid, a breakdown product of malvidin, the primary red-brown pigment in red wine that — at least around Egypt — is found in virtually no other liquid or juice.

The test came up positive, revealing the wine's "red grape origin," the team reports in the March 15 issue of the journal Analytical Chemistry.

WASHINGTON POST

Ellsberg sees similarities in Vietnam and Iraq

► **TELLING ALL**
From Page A1

dors.

Opinions differ on whether the willingness to tell all is a good thing, but to Ellsberg, who has been sharply critical of the war in Iraq and even written articles encouraging current government employees to leak what he calls "Iraq's Pentagon Papers," the phenomenon is a source of optimism.

"I think these people are heroes. They're really acting appropriately in a very dangerous situation," he said. "It's as if we are learning about the Tonkin Gulf a month or two later instead of years later."

Although Ellsberg, now 72 and living in Kensington, considers Clarke somewhat of a kindred spirit, he doesn't quite see him as a whistle-blower. Clarke was no longer an employee of the administration when he spoke out and did not provide documentation to back up his accusations — accusations the administration has rejected.

Ellsberg said the only real whistle-blower of recent times is Gun, who briefly faced charges under the British Official Secrets Act and supported her claims with documents.

"I find her really admirable," Ellsberg said, but he considers the rest remarkable, too, for being willing to go public in a way and with a speed that simply didn't occur 40 years ago.

"Why are they acting differently from people in my generation?" he said. "We knew (Vietnam) was just as deceptive and the policy was just as bad, but we certainly weren't tempted to leak."

At least, not until Ellsberg did it. But since then, a number of observers said, going public early and often has become more and more acceptable, even among ranking government officials.

It certainly wasn't acceptable in the 1950s, said Stephen Hess, who was a speechwriter for President Dwight Eisenhower and is now with the Brookings Institution in Washington, D.C.

"It was a rule of thumb that no one spoke until the president did. When the president wrote his memoir, told his story, that was when the others did," Hess said. The exceptions, he said, were books that were rarely very critical — and even then, they were considered scandalous.

"We on the staff thought that was just in such poor form . . . it just wasn't done," he said.

The ideal at the time, Hess said, was the White House staff described by pre-World War II political scientist Louis Brownlow, who recommended that President Franklin Roosevelt's staff should "remain in the background, issue no orders, make no decisions, emit no public statements . . . They should be possessed of high competence, great physical vigor, and a passion for anonymity."

That changed markedly with the release of the Pentagon Papers. Another step came, Hess said, during the administration of President Jimmy Carter, who was criticized in public by some former staffers and was himself critical of his predecessors and later his successors — another taboo. After that, the genie was out of the bottle.

"Over time, it became an avalanche. By the time you reached Clinton, you had people that secretly had book contracts," he said. "You had people sitting around the table keeping notes."

Both former Clinton political consultant Dick Morris and former senior adviser George Stephanopoulos had books pub-



Daniel Ellsberg and Anthony Russo (left), co-defendants in the Pentagon Papers trial, and wives after charges were dismissed.

lished while Clinton was still in office.

But Clarke's book, because of his position, may be taking the trend to a new level, said Peter Berkowitz, a research fellow at the Hoover Institution and an associate professor of law at

O'Neill, and Hans Blix, the former U.N. chief weapons inspector in Iraq, have such an impact on public policy and public discourse — even though, in his opinion, they fit into the category of disgruntled ex-employee as comfortably as whistle-blower.

"I think these people are heroes. They're really acting appropriately in a very dangerous situation."

DANIEL ELLSBERG

George Mason University Law School.

"I do think what Clarke has done is really unprecedented in our history: somebody who served as a national security adviser to the president stepping down and, while that president is still in office, blasting him," he said. "That just hasn't been done before."

It is also surprising, Berkowitz said, that comments by Clarke,

"That's actually one reason, it seems to me, to take this criticism with a grain of salt," Berkowitz said.

But regardless of the motivation, telling all is probably going to be increasingly popular, said UC Berkeley political science Professor Bruce Cain, for commercial reasons if not ideals.

It is increasingly difficult, because of conflict-of-interest laws, for former government officials

to move easily back and forth between the government and the private sector, and the growth of cable and the publishing industry ensures that they can seek lucrative post-government employment in the media, Cain said.

And because books sell better when the author's name is fresh in people's minds, he said, it is likely such books will continue to be published as soon as possible — and sooner all the time.

"It's part of this whole speeding up of the cycle of everything. Now, even our memories have to come faster," he said.

Michael Kohn, general counsel for the private National Whistleblower Center, agreed with Cain's prediction of faster and faster revelations, but with a different premise.

"You're seeing an evolution of our society. Ellsberg is essentially the first modern whistle-blower. As a result, the news media observed how important obtaining this type of information was and how it was the ultimate lifeline to a free society," he said. "As this message began to take root, the will of people to expose information at an earlier point of time has just gone with it."

The main brake on the phenomenon, Kohn said, are federal laws that he feels inadequately protect people who try to speak up while still employed, causing more to delay revelation until they quit or are fired.

With more protective laws, he said, "you would have heard from (Clarke) before Sept. 11."

Hess and Berkowitz said the consequences of this new willingness to tell all include the loss of a kind of loyalty in government service that had been a tradition, and the possibility that future administrations may appoint more party loyalists and be less willing to keep on longtime civil servants from prior administrations.

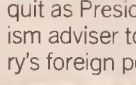
"There is a very good reason why there is executive privilege and why a president should feel they have a right to receive con-

THOSE WHO TOLD

Daniel Ellsberg, who leaked the Pentagon Papers three decades ago, cited these people as part of what he see as a new trend of those who criticize governments still in power:



► Scott Ritter, the former chief inspector for the U.N. Special Commission searching for weapons of mass destruction in Iraq.



► Rand Beers, who quit as President Bush's antiterrorism adviser to become John Kerry's foreign policy adviser.



► Former Treasury Secretary Paul O'Neill, whose January book about his tenure inside the Bush administration was based, in part, on

classified documents.

► Karen Kwiatkowski, a retired lieutenant colonel formerly assigned to the Pentagon's Office of Special Plans who wrote an article critical of the war on the online site Salon.com — entitled "The New Pentagon Papers."



► Joseph Wilson, a former ambassador who led an investigation into whether Iraq tried to buy uranium from Niger and later publicly accused the White House of manipulating his findings.

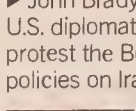
► Hans Blix, the former U.N. chief weapons inspector in Iraq.

► Katharine Gun, a British govern-

ment linguist who was charged under the British Official Secrets Act for leaking an e-mail purportedly from American intelligence services asking for help spying on United Nations ambassadors.



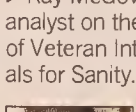
► Robin Cook, a former British foreign minister who quit and wrote a book saying the threat of Iraq was overblown.



► John Brady Kiesling, a career U.S. diplomat who resigned to protest the Bush administration's policies on Iraq.



► Anthony Zinni, retired Marine general and former U.S. commander for the Middle East who has criticized the handling of postwar Iraq.



► Ray McGovern, a retired CIA analyst on the steering committee of Veteran Intelligence Professionals for Sanity.



► Clare Short, a former international development secretary who resigned from British Prime Minister Tony Blair's government

in protest after the invasion and later said she had seen transcripts of bugging of Kofi Annan's office.

fidential information from their aides and that their aides owe loyalty to them, Hess said.

But to Ellsberg, the fact that a number of Bush's own people have been willing to break that presumption of loyalty is a strong condemnation of the president and his neo-conservative allies, something Clarke himself has hinted at in public

statements.

Asked on "60 Minutes" whether he owed loyalty to the president, Clarke responded, "Up to a point. When the president starts doing things that risk American lives, then loyalty to him has to be put aside."

E-mail Matthew B. Stannard at mstannard@sfgate.com.



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Bush, Kerry count on state

► **CAMPAIGN**
From Page A1

Kerry and Bush have traded charges about who is more beholden to special interests, lobbyists and corporations on the fund-raising front, but the two candidates are "in this up to their necks," said Chuck Lewis, the campaign finance watchdog behind the Center for Public Integrity in Washington, D.C., and author of "The Buying of the President 2004."

"Let's be honest: There is no Gandhi in American politics," Lewis said. "So when they make these charges and countercharges, they're both disingenuous."

Still, Lewis noted there are dramatic differences in fund-raising patterns between the Republican president and the Democratic senator.

In roughly 20 years in politics, Kerry has raised in excess of \$60 million in his career; by comparison, "Bush has raised \$300 million in half the time," Lewis said.

So while "both men are supreme fund-raisers, no one is more proficient at fund raising in the history of the planet than Mr. Bush," who took in \$131 million last year, or \$360,000 a day, Lewis said. "We've never, ever seen numbers remotely like his numbers."

Bush campaign ads have made use of figures from the Center for Responsive Politics, which confirmed that Kerry has taken in more money from lobbying firms than any other senator, Lewis noted. But the Bush campaign appears to have side-stepped the president's even greater intimacy with the big-money lobbying interests, experts say.

"I suspect when the numbers are in, Bush has raised four to five times more money from lobbyists," Lewis said. "Are both men quite acquainted with powerful lobbyists and interests? Yes. Is one candidate better acquainted than the other when it comes to the sheer dollar amount ... from powerful interests? One is vastly different from the other."

But Republican leaders accuse Kerry of questionable fund raising.

"There's a big difference in the fund raising between Bush and Kerry," said Bob Grady, a San Francisco-based managing director of venture capital at the Carlyle Group, a donor to Bush and a vice chairman of the president's California campaign.

"Bush is raising his money legally from hundreds of thousands of individuals, subject to the \$2,000 cap" required by campaign finance laws, Grady said. But Kerry is "skirting campaign finance reform ... and having the majority of his campaign being funded illegally by a billionaire, George Soros."

Soros, a Democrat, has said he is prepared to spend several million dollars to support an independent expenditure campaign to defeat Bush.

Kerry also will benefit from donations to other independent expenditure groups, such as NA-RAL Pro-Choice America, whose head, Kate Michelman, said last week in San Francisco that her organization plans an aggressive fund-raising effort designed to help oust the president.

Kerry campaign spokeswoman Laura Capps said the senator's campaign has "absolutely no link with these independent expenditure groups," and that Republicans are trying to muddy the waters by suggesting illegality — or that they don't bene-

fit from similar activities.

"It's the Bush-Cheney campaign that is held captive by big oil and the pharmaceutical companies," Capps said.

She said Internet donations being amassed by the Kerry campaign illustrate that "ours is a much more grassroots, smaller contributions group."

Kerry "raised \$20 million online in 20 days in March from 200,000 contributors," she said.

Bush "has raised \$4 million total (online) since he started a Web site" at least a year ago, she said. "... It shows that these two campaigns are dramatically different in the kind of supporters they have."

Some of Kerry's more traditional donors and biggest fund-raisers in California acknowledge he is unlikely to be able to play dollar-for-dollar catch-up with Bush.

"There's no way that John's going to raise as much money as George Bush is, and that's not the goal," said Wade Randlett of Dashboard Technology, a Web-based consulting group in San Francisco.

"You can't put a price on the Democratic unity that John clearly has," said Randlett, one of Kerry's key high-tech backers.

Indeed, some of the most deep-pocketed donors to other Democratic candidates in Silicon Valley — the mother lode of

state fund raising — said they now will play a role for Kerry.

Prominent Silicon Valley venture capitalist Andy Rappaport and his wife, Deborah, a member of the Portola Valley school board, were active supporters of former Vermont Gov. Howard Dean in his Democratic primary campaign against Kerry and others. Now that Kerry has won the primary fight, they said they'll help him any way they can.

"There were differences, and each of us chose who we wanted in the primary process," Deborah Rappaport said. "But now that we have reached this point, the differences between John Kerry and other Democratic hopefuls are astonishingly small compared to the differences between John Kerry and George Bush."

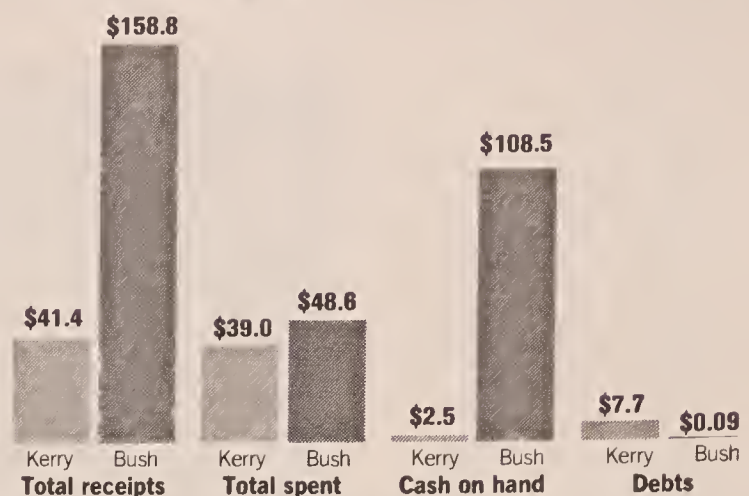
Also joining up recently with Kerry, said Randlett: San Francisco venture capitalist Sandy Robertson, who aided Connecticut Sen. Joe Lieberman's campaign; Burlingame attorney Joe Cotchett, a force for North Carolina Sen. John Edwards; and Mark Chandler, general legal counsel for Cisco Systems Inc., who was a leading fund-raiser for Rep. Dick Gephardt of Missouri during his Democratic primary campaign.

E-mail Carla Marinucci at cmarinucci@sfgchronicle.com.

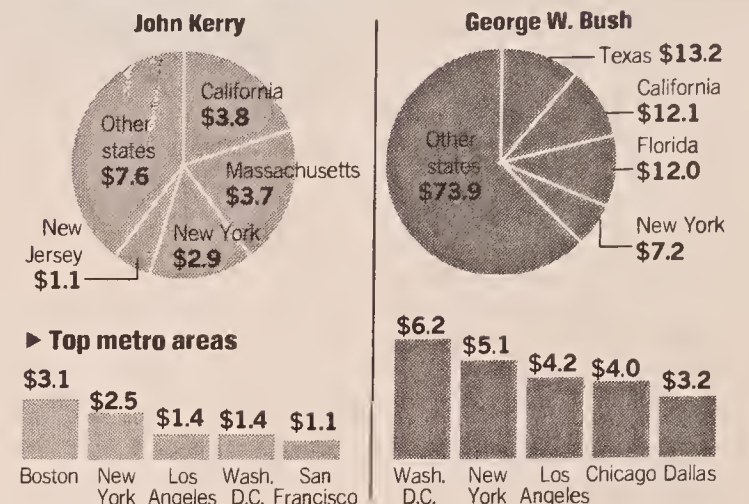
Presidential campaign funding

In millions of dollars, as of Feb. 29

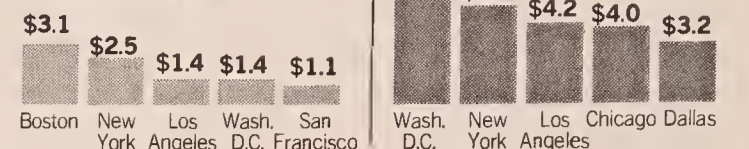
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Surprise attacks in capital of Congo

By Somini Sengupta
NEW YORK TIMES

DAKAR, Senegal — For the first time since war ended last spring in Congo, heavy gunfire broke out early Sunday across the capital, Kinshasa, as unidentified assailants carried out simultaneous attacks against several military posts and two radio and television stations.

Whether the attacks were by soldiers disgruntled about unpaid salaries or an attempt to derail the power-sharing transitional gov-

ernment, from within or without, was unclear at day's end. Diplomats in Congo said no possibility could be ruled out.

Diplomats and Congolese government officials said forces loyal to the late ruler Mobutu Sese Seko, known as the Zairean Armed Forces, or FAZ, had been implicated in the attack. Wire service reports said 15 men were arrested and paraded before reporters on Sunday afternoon, while several others remained at large. Two government soldiers were killed in the attacks.

"It was an attack by armed military personnel seeking to undermine the internal security of the Congolese state," Interior Minister Theophile Mbemba Fundu

said at a news conference in Kinshasa, Reuters reported. "They were unidentified assailants, but we think with certain internal accomplices."

The British ambassador, Jim Atkinson, said a very senior government official had described it as a coup attempt. "It is reasonably clear what happened also involved a number of outsiders, including ex-FAZ," Atkinson said by telephone from Kinshasa.

The U.S. ambassador, Aubrey Hooks, urged caution. "Given Congo's history and given the fact that we don't know enough about who these people are, what their objectives are, and who was behind it, it would be premature to jump to a hasty conclusion," Hooks said, al-

so by telephone from Kinshasa.

Under an accord reached in April 2003, Congo's fragile transition to peace is overseen by a government made up of three former warring factions. Senior military posts have been divided among the parties, but a new integrated national army remains little more than an ideal on paper.

Rank-and-file members of the different factions still roam the countryside.

Heavy artillery fire echoed through the capital, starting at about 2 a.m. Sunday, witnesses said. Calm had returned by mid-morning. One Western diplomat said the home of President Joseph Kabila was among the targets, as well as the military intelligence

unit and a military air strip. Diplomats said they spoke to Kabila on Sunday morning and that he was fine.

Civil war broke out in 1998, when rebels backed by neighboring Rwanda and Uganda sought to

unseat Kabila's father, President Laurent Kabila, a former guerrilla who had ousted Mobutu the year before. The war, which dragged in six of Congo's neighbors, killed an estimated 3.5 million people, mostly through disease and starvation.

Political left sweeps vote in France

NEW YORK TIMES

PARIS — France's political left swept regional elections Sunday in a surprisingly strong rebuke to President Jacques Chirac's conservative government, delivering the French equivalent of a Bronx cheer to his restructured social welfare policies.

The searing message that the nation is dissatisfied with the 2-year-old government, which has fought to strip expensive entitlements from workers, is likely to be answered with a Cabinet shuffle and a slower pace of economic changes. While many French voters support Chirac's foreign policies — particularly his opposition to the United States over the invasion of Iraq — the unpopularity of Chirac's domestic economic program has become a dominant issue here and was the major theme in the elections, which were effectively a midterm referendum on his administration.

Teachers, scientists and firemen have all taken to the streets in recent months to protest changes intended to make the French work harder and get less in retirement.

According to exit polls late Sunday, the Socialist Party and allied leftist parties won half of the votes while center-right parties that include Chirac's Union for a Popular Movement party, or the UMP, won 37.5 percent. The far right won 12.5 percent.

NOTICE OF THE APPLICATION FOR GAS RATE CHANGE

On March 19, 2004, Pacific Gas and Electric Company (PG&E) filed an application with the California Public Utilities Commission (CPUC or Commission) requesting changes to PG&E's gas rates for the calendar year 2005, and storage rates from April 1, 2005 to March 31, 2006. This application is known as the "Gas Transmission and Storage 2005 Rate Case Application" (referred to herein as the Application).

In the Gas Accord II-2004 Decision (CPUC Decision (D.) 03-12-061 in Application 01-10-011), the Commission adopted the existing gas market structure for 2004 and 2005. Therein, the Commission set rates for 2004, and ordered PG&E to file this Application to, among other things, set gas transmission and storage services for 2005.

WHY WE ARE ASKING FOR CHANGES

We are requesting a decrease in the gas transmission and storage revenue requirement by \$1 million to recover the costs of providing gas transmission and storage services and to comply with government regulations and orders regarding these services. This represents a total decrease of less than 1% from the gas transmission and storage revenues for 2004. This decrease is only for the 2005 period.

The decrease in revenue requirement, coupled with a projected decrease in total gas usage, result in a slight proposed increase in revenues for bundled core customers. If the CPUC approves our gas rate increase request, a residential customer using 50 therms per month would see an average monthly gas bill increase of \$0.27, or 0.6%, from \$45.50 to \$45.77. Your individual bill may differ.

Bundled core bills include the total cost of gas and transportation to a customer's location. Transportation-only customer bills only include the cost of transportation. A new backbone level service will be available to qualifying noncore end use customers.

PUBLIC PARTICIPATION

The CPUC welcomes the public's participation. Before acting on our application, the CPUC may hold public participation hearings to provide customers an opportunity to express their views. If public participation hearings are scheduled, you will be notified of the dates, times and locations. You may also submit written comments to the CPUC at the address listed below. All such correspondence to the CPUC should include a reference to PG&E's Gas Transmission and Storage 2005 Rate Case Application.

Evidentiary hearings on this application have not yet been scheduled. Evidentiary hearings are formal hearings in which parties present their proposals in testimony and are subject to cross-examination before an Administrative Law Judge. These hearings are open to the public, but only those wishing to present evidence or cross-examine witnesses may participate. If you would like to participate in the evidentiary hearings, please contact the CPUC's Public Advisor at the address below.

Participants in these proceedings may offer proposals that differ from those of PG&E. After considering these proposals, the CPUC will issue a decision. The actual plan adopted by the CPUC may differ from what is requested by PG&E in its application, and may result in an increase or decrease in your individual rates.

If you wish to participate in the proceedings or send comments, if you need advice or more information, or if you want to get copies of the Office of Ratepayer Advocates' rate proposals when they are available, please write or call:

The Public Advisor
California Public Utilities Commission
505 Van Ness Avenue, Room 2103
San Francisco, CA 94102
415.703.2074
1.866.849.8390
TTY 415.703.5282
TTY toll free 1.866.836.7825
or via e-mail to: public.advisor@cpuc.ca.gov

Mention PG&E Gas Transmission and Storage 2005 Rate Case Application and indicate if you would like a written response, otherwise, no reply will be sent. Your letter will be sent to the Commissioners and will become part of the formal correspondence file for this application.

FOR FURTHER INFORMATION

You can get more information from PG&E by writing to: PG&E Gas Transmission and Storage 2005 Rate Case Application, PG&E, P.O. Box 7442, San Francisco, CA 94120. You may review a copy of any of the PG&E applications at our corporate headquarters (77 Beale Street, Room 3120, San Francisco, CA 94105), any of our division offices, or at the San Francisco office of the CPUC.

Este aviso describe la propuesta de Pacific Gas and Electric Company al CPUC para cambios en las tarifas de gas. Para información en español sobre esta propuesta, por favor escriba a Pacific Gas and Electric Company, P.O. Box 7442, Room 3120, San Francisco, CA 94120, "Attention: PG&E Gas Transmission and Storage 2005 Rate Case Application."



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Salary!**

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(Please Print) ☐ MRS. ☐ MRS. ☐ MRS. If you DON'T want to receive email updates from KBLX 102.9fm, check here. ☐

MY NAME _____

HOME ADDRESS _____

CITY _____ STATE _____ ZIP _____

HOME PHONE _____ BIRTH DATE _____

E-MAIL ADDRESS _____

Your Times

Below are all the times I will be listening for my name to win!

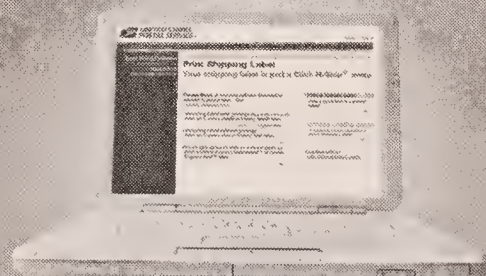
(Check off all of the times that you will listen to KBLX 102.9fm)

	7am-8am	11am-12pm	4pm-5pm
Monday	☐	☐	☐
Tuesday	☐	☐	☐
Wednesday	☐	☐	☐
Thursday	☐	☐	☐
Friday	☐	☐	☐

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1) Between March 1, 2004 and March 17, 2004, selected individuals in the metropolitan San Francisco area will receive telephone calls requesting their consent to be entered in the sweepstakes by agreeing to listen to KBLX 102.9fm during certain times.
2) Individuals who consent will receive a letter confirming their entry and their agreement to the Official Rules. Each letter also will contain a pre-addressed "Time Card" that the listener is requested to complete and return to KBLX. Completed Time Cards must be received no later than May 6, 2004. Limit one mailed Time Card per person. No mechanical reproduction of Time Cards permitted. 2) Mail in entries are also sent out to various households in the San Francisco metro area. Completed "Double Your Salary" entries are to be returned to KBLX. Contest entries including name, address, home phone, e-mail address (optional), and birthday, may also be submitted to KBLX via mail to 55 Hawthorne St., #900, San Francisco, CA 94105 or via the web by logging on to www.kblx.com beginning February 23, 2004. All entries need to be received by May 6, 2004. 3) Each weekday, Monday-Friday, between March 1, 2004 and May 7, 2004 a random selection will be made from among all winners as of that day to select three (3) names at 7:20am, 11:20am and 4:20pm on KBLX. After hearing their name announced on the air, the winner must call 1-800-683-KBLX (5259) within 30 minutes to claim the prize. If the call is not made within that time, the prize will be forfeited and will not be awarded. 4) Odds of winning a prize depend upon the exact number of entries received. 5) KBLX will double the weekly salary of all winners by matching one week's regular gross salary up to \$1,000 (excluding overtime, vacation and sick time). In the event that a winner's weekly salary is less than \$500, said individual will be awarded the minimum prize of \$500. Anyone who has been unemployed for a one-month period at the time of winning will receive the minimum amount of \$500. Only one prize per person, per day. 6) KBLX will determine the winner's weekly salary by averaging that individual's previous three weekly pay stubs. If the winner is paid on a two-month basis, the previous two months pay stubs will be averaged. Pay stubs must be dated from the three-week period prior to winning this contest. 7) Winners must appear in person with a California photo ID and copies of their pay stubs to claim their prize at the KBLX studios during normal business hours (Mon-Fri, 9am to 5pm). At that time, winners will be required to sign and complete a release form. If the contest winner does not claim a prize within 45 days after notification by KBLX, the prize will be forfeited and will, consequently, remain the property of KBLX. Winners are responsible for all taxes on a prize and for any expenses not specified related to their participation in the sweepstakes and the acceptance and use of a prize. Prize is non-transferable. Prize will be awarded in the form of a check. 8) The KBLX "Double Your Salary" contest is open to all legal U.S. residents 18 years and older who reside in the San Francisco metro area. Winners may win only once during the duration of the contest. Employees of KBLX, Direct Marketing Group, and their respective affiliated and subsidiary companies and members of the immediate families or households of such employees are not eligible. Void where prohibited. 9) KBLX, Direct Marketing Group, their representatives and assigns are not responsible for claims, liabilities or damages arising out of or in connection with any prize won in this contest, nor are they responsible for any malfunctions of equipment or hardware systems during this contest. 10) By participating, entrants agree if their name is selected as a winner, to the announcement on air of their name and, if it is determined by sponsor to confirm their winning response, to having such confirmation taped, filmed and recorded for use on the air or in any other media, including the KBLX website. Participants are bound by the official rules and the decisions of the judges, which are final and binding in all respects. 11) KBLX reserves the right to disqualify contestants who do not adhere to these rules or who provide unsatisfactory documentation. 12) No mechanical reproductions will be eligible. All entries become property of KBLX and will not be returned. KBLX is not responsible for lost, stolen, inaccurate, damaged, illegible, late, postage due, misdirected entries and technical errors of any kind. In the event that the sweepstakes is not capable of being conducted as originally planned due to computer virus, tampering or other cause beyond KBLX's control, KBLX reserves the right to modify, suspend or terminate the sweepstakes and award all prizes as it deems to be fair, appropriate and consistent with these official rules. 13) If you do not want to receive future sweepstakes mailings from KBLX through the US postal service, notify KBLX by mail at the address listed below. Be sure to include your name, address, phone number, signature and date. 14) Sponsor: KBLX, 55 Hawthorne Street, Suite 900, San Francisco, CA 94105.

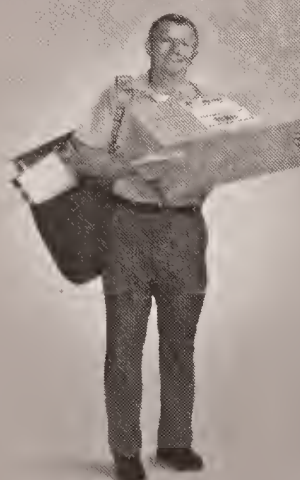
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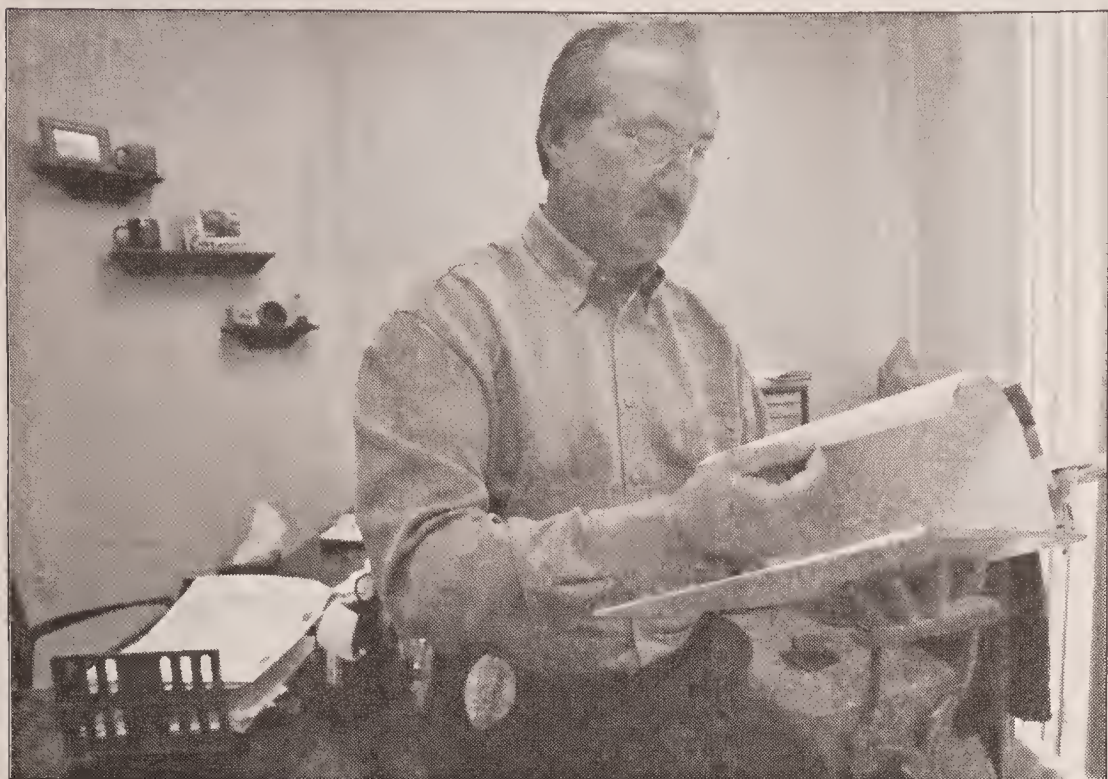
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WORKERS' COMPENSATION CRISIS

FRAUD INVESTIGATOR

Expert sees fraud by bosses, not workers, as a new twist



Steven Begley works in a 22-person office in Benicia, where he investigates insurance fraud for the Department of Insurance. Premium scams by employers are a big problem, he says.

MICHAEL MALONEY / The Chronicle

Ask Steven Begley to tell of the dumbfounding scams he's exposed in 17 years as an insurance fraud investigator, and he'll start with the "worker" he nabbed going from job to job using slightly different names and Social Security numbers, filing fraudulent injury claims along the way.

"He tried to do it four times — four times that I caught him on," Begley said.

But ask the former Solano County deputy sheriff what the hot rip-off in the insurance racket is these days and he'll provide a real shocker: premium fraud.

Not cases of employees gaming the system — but *employers*.

"I did one in San Francisco where the (employer) admitted that, 'Not only do I not have workers' comp insurance, I do withholdings from my employees — and I'm keeping them,'" Begley said from his 22-person Benicia office, where he supervises a team of seven. "His employees thought they were covered."

Last month, Begley's team had 85 open cases of potential work-

ers' compensation fraud, along with 16 of alleged auto insurance fraud and four property-casualty cases. Cases that could be prosecuted are sent to district attorneys.

To be sure, he said, employee fraud makes up a fair amount of the caseload. But left out of the public debate this year seems to be the cheating ways of their bosses.

Their scams, he said, include "not reporting all the claims they should be claiming, or running a shell corporation: changing the officers of the company on papers to lie and say you've never had experience running a business before. Or misclassifying your employees."

Reinforcements for his team don't seem to be on the way. In a system derided for allegedly abundant fraud, expanding fraud units hasn't been a hot topic.

"It's not uncommon for me to say we can't open a case because we don't have resources," Begley said. "It doesn't happen a lot, but it's not uncommon."

— John M. Hubbell

Steven Begley, 49, Benicia

Title: Fraud investigations supervisor, Department of Insurance

Role: Supervises seven of 142 investigators statewide who probe workers' compensation claims.

Friends: Reformers who back up their distaste for fraud with resources.

Enemies: Lawmakers who might take a further ax to state spending in coming budget negotiations. A hiring freeze for support personnel begun under Gov. Gray Davis, which is still in effect.

Popular fiction: Fraud abounds in the system. While the level of fraud can't be judged by the number of cases investigated, that number is far smaller than some imply. In 1999, the most recent year for which statistics are available, 1.6 million workers' compensation claims were filed. Investigators are probing only 989 of those cases.

What's at stake: Not much. Despite reformer rhetoric that plays on the notion of rampant fraud, the Schwarzenegger-backed ballot initiative doesn't call for an increase in the number of state investigators to tame it. Talk swirling around the expected compromise reform bill hasn't centered on fraud containment, either.

BOOK EDITOR

Albany woman pleased with way system worked after her injury

Robyn Raymer had "a good experience" with workers' compensation and is a book editor once again after being treated for repetitive strain injury in 2000.

But the 49-year-old Albany resident fears Gov. Arnold Schwarzenegger will hurt the program.

"When Schwarzenegger says bad things about workers' comp, I get angry because people really need it," she said.

With nearly 1 million workers' compensation claims filed each year, no one case represents them all. But Raymer's repetitive strain injury claim is in the crosshairs of current reforms.

After 13 years of handwriting and editing manuscripts for a small publisher in San Francisco, Raymer says she developed excruciating arm and neck pains.

"After being frightened, I filed a claim," she said. "My boss was really supportive."

Robyn Raymer, 49, Albany

Title: Freelance book editor

Role: Self-employed after settling workers' comp claim.

Friends: Her ex-boss and a system that treated her well.

Enemies: Those who want to make it tougher to get covered.

Popular fiction: That the system is supposed to care for workers, when it punishes bosses who care.

At stake: Concern that the system won't be there for the next injured worker.

In contrast to a sudden shock, repetitive stress injuries result from years of strain. Today if job duties play any role, a worker complaining of cumulative strain can get covered.

Business leaders want the sys-

tem to start determining whether work — as opposed to off-work hobbies — "predominantly" or "substantially" caused the injury.

Raymer has no idea how that would be done, and is glad that wasn't the rule when she received six months of disability and help in setting up a home office with a voice-recognition computer and ergonomic keyboard. She also received a \$30,000 cash settlement to help her get started as a freelancer.

"I know a lot of people probably fake injuries, but I know I didn't," Raymer said.

Although she feels the system treated her well, she is troubled by one thing.

"My (ex-)boss' workers' comp insurer canceled his insurance as a result of my case," she said. "And I was the only claim the company ever had."

— Tom Abate



PENNI GLADSTONE / The Chronicle

Robyn Raymer received six months of disability and help in setting up a home office with a computer that had features of voice recognition and an ergonomic keyboard. She also received a \$30,000 cash settlement to help her get started as a freelancer.

System seen as failing workers, employers

WORKERS COMP

From Page A1

tive if the Democrat-controlled Legislature doesn't act.

Schwarzenegger has been meeting with the four top legislative leaders from both parties, looking to head off a ballot fight. Schwarzenegger's second deadline for compromise legislation passed uneventfully on Friday, but he and the group reconvened again early Sunday evening inside his office to discuss the issue.

"We're continuing to make progress," Gabriel Sanchez, spokesman for Assembly Speaker Fabian Nunez, D-Los Angeles, said Sunday. "We're optimistic we can come to an agreement soon — over the next week."

Allan Zaremborg, president of the California Chamber of Commerce said last week that "it's early in the real deadline process — April 16," a reference to the day ballot backers must submit the required signatures to place their measure before the voters.

While the looming initiative lends urgency to the talks, the real impetus to strike a deal is rooted in the perception that California's workers' compensation system is failing employers and employees.

At a conference at the University of Southern California in February, experts highlighted the insurance burden on employers.

"California has consistently been above the U.S. average, and since 1996, the gap between California and the rest of the country has widened," said John Burton, dean of the school of management and labor relations at Rutgers University in New Jersey.

Average workers are often baffled by the system's confusing rules and unpredictable outcomes. Economist Peter Barth, emeritus professor at the University of Connecticut, called workers' comp in California "the worst of all worlds ... costs are high to employers, while the benefits (for injured workers) are low to relatively low."

Though divided on details, business and labor groups have entered the current negotiations ready to consider reforms directed toward the medical, legal and in-

surance interests that feed off workers' compensation.

"We make the assumption that both the administration and the employers understand that this is not about taking a hatchet to the workers' compensation system," said Barry Broad, a lobbyist representing the Teamsters, the United Food & Commercial Workers and other unions.

"It is my perception organized labor wants to reach a consensus with the business community," Zaremborg said.

Despite these good-faith efforts, the system's flaws stem from a thicket of problems, any of which would be tough to solve alone: the overall inflation in medical costs, the general litigiousness in society and the fact that some people — bosses and workers — will try to game any system.

"You're dealing here with financial facts, medical facts, business facts, myths and anecdotes," said Stanley Zax, chairman of Zenith National Insurance, one of the state's largest workers' comp insurers. "If you spent all of your life, you still wouldn't capture all of the complexity of it."

Yet whether legislators agree this week or punt the matter to voters in the fall, many contentious issues must be settled. These include:

► Standards for disability awards:

A recent Rand Commission report found wide disparities for workers with comparable injuries and noted that this caused people to hire lawyers. Business wants the state to adopt uniform standards, such as the American Medical Association's guidelines, to reduce the variations that invite litigation. Rand report co-author Robert Reville said no guidelines are perfect, and two doctors could interpret them differently. Still, "it's likely to be better than the present system," he said.

► Stricter guidelines for permanent-partial disabilities:

Injured workers can be paid for partial disabilities even if they return to work. Some estimates say 80 percent of California's workers' comp costs involve cases of permanent-partial disability. Employers

say current rules allow some workers to collect multiple payments for repeated injuries to the same body part. They want tougher rules to prevent double-dipping. The code word is "apportionment."

► Physician choice:

Employers want greater control over who makes coverage and treatment decisions. Today workers can predesignate a provider or switch medical providers after 30 days. Business leaders say this encourages "doctor-shopping." Labor is leery of putting "company doctors" in charge.

► Rate regulation and immediate benefits:

Labor wants to make sure any savings get passed to employers in the form of lower rates, so that businesses won't demand new cuts. Since workers' comp insurance rates were deregulated in 1995, cost controls would require new legislation — which business leaders call a "distraction" from cost-cutting reforms.

Labor would also like some provision to trigger immediate benefits when workers file claims. Now benefits can be delayed in disputed cases. Labor says this not only delays treatment, but also pushes workers to get lawyers, while business is wary of a change that could increase costs.

Once these and myriad equally complex issues are ground through the legislative sausage-maker, the bill that emerges will be scrutinized by all sides.

"We need time to look at the legislation to make sure that it does what it's supposed to do," Zaremborg said.

There will be just as much anxiety on the other side.

"Without workers' comp, I don't know what I would have done," said Albany resident Robyn Raymer, now recovered and working after six months on disability for repetitive strain injury.

"It's pretty easy, I suppose, to fake injuries," she said. "But workers' comp has to be there for the people who really need it."

Chronicle Staff Writer John M. Hubbell contributed to this report.

E-mail Tom Abate at tabate@sfgchronicle.com.

Workers' compensation in crisis

The stakes couldn't be higher. Nearly 15 million Californians are covered by workers' compensation. But with one voice, employers howl that the program's escalating costs are killing them. Gov. Arnold Schwarzenegger and leaders of the Democratic-controlled Legislature are negotiating compromise reforms in time to head off a threatened ballot initiative. Here's a glimpse of the challenges.



What is workers' compensation?

Since 1913, California has required employers to provide medical and disability benefits to injured employees. In return, employees are generally prohibited from suing employees for pain and suffering or punitive damages.

Why is the system in crisis?

► The cost of providing workers' compensation coverage in California far exceeds national norms. Business owners say it is killing jobs.

► Data show that California workers file more claims than workers elsewhere for temporary or permanent disability.

► Medical costs per case in California are far above average. But the average injured worker gets benefits at or below national norms. For fatalities, the average death benefit in California is less than 60 percent of average.

► Critics say the system hurts employers and employees, and blame attorneys, medical providers and/or insurance companies for the system's woes.

Previous reforms

1989: Legislators tried to curb legal and medical costs.

1993 to 1995: Laws passed during this time stopped mental stress claims and deregulated insurance rates.

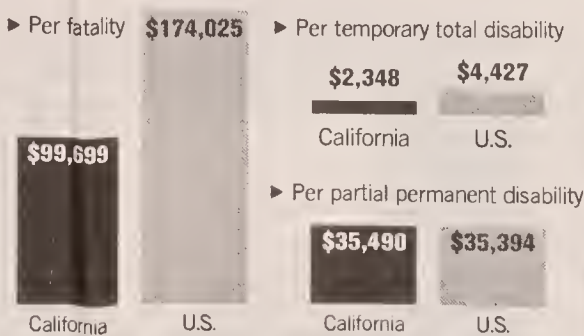
2002: Lawmakers raised disability and death benefits while toughening anti-fraud provisions. Costs were supposed to drop 2.9 percent. But insurance premiums continued to skyrocket.

2003: On the eve of the recall, lawmakers whacked \$7 billion, mainly in medical costs, pruning the system back to \$22 billion. But employer premiums barely dropped. Lawmakers are trying once again to control this behemoth — with the threat of a ballot initiative if they fail.

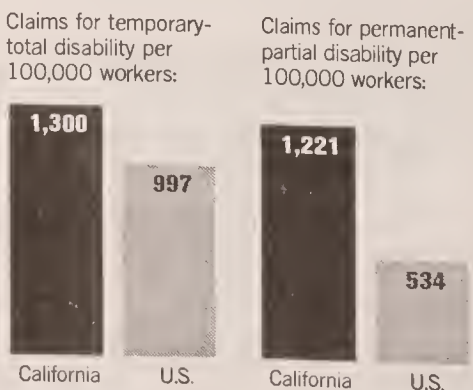
CALIFORNIA'S SYSTEM: Out of sync with the nation

In California, direct cash payments to workers are average or below the national average ...

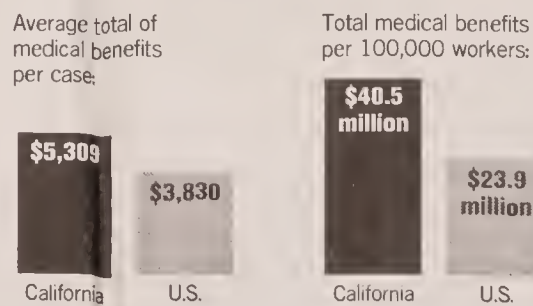
Average cash benefit paid:



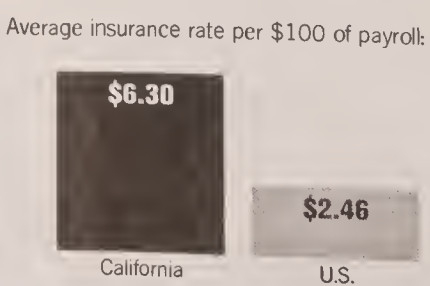
... but California workers file so many claims ...



... and medical costs here are so much higher ...



... that California employers pay the nation's highest rates for coverage.



Sources: Workers' Compensation Insurance Rating Bureau, Workers' Compensation Policy Review, Rutgers University Professor John Burton

WORKERS' COMPENSATION CRISIS

PHYSICAL THERAPIST

Reforms result in treatment delays

Physical therapist Robin Wham has an idea of what will happen if employers are left solely in charge of determining whether workers can continue on extensive courses of treatment.

Her business, she says, will boom.

"They're going to let the dam break and say, 'Go, because we don't want you to sue our butts,'" said Wham, who runs a practice started by her father in 1957. But "the heyday won't last, and it will perpetuate the problem that comp has gotten itself into."

What's needed, Wham said, is a far higher level of accountability in her profession that would allow insurers to track treatment with more precision.

"There's nothing on my billing that says I have a physical therapist license to do this," she said. "If a physician was billing physical therapy and they had an unlicensed person doing it, comp pays for it when the code comes across their desk. Let's require a license number on the bill."

Since new reforms took effect in January requiring more authorization for treatment, the system has only become worse, she said. Patients are waiting days, sometimes weeks for approval for therapy that could formerly begin almost immediately. "The continuity of care is kind of a craphoot right now," she said.

It gives her a bad feeling about what may lie ahead.

"I used to go out on a limb and say I'm pretty sure that the carri-

Robin Wham, 50, Folsom (Sacramento County)

Title: Physical therapist and owner since 1982 of Capitol Physical Therapy Center, which employs 14 people at two clinics

Role: Treats injured workers.

Friends: Those who will allow a worker's therapist, not the employer, to play a role in setting the needed length of treatment.

Enemies: Physical therapy assistants and other unqualified personnel illegally treating patients and billing the system.

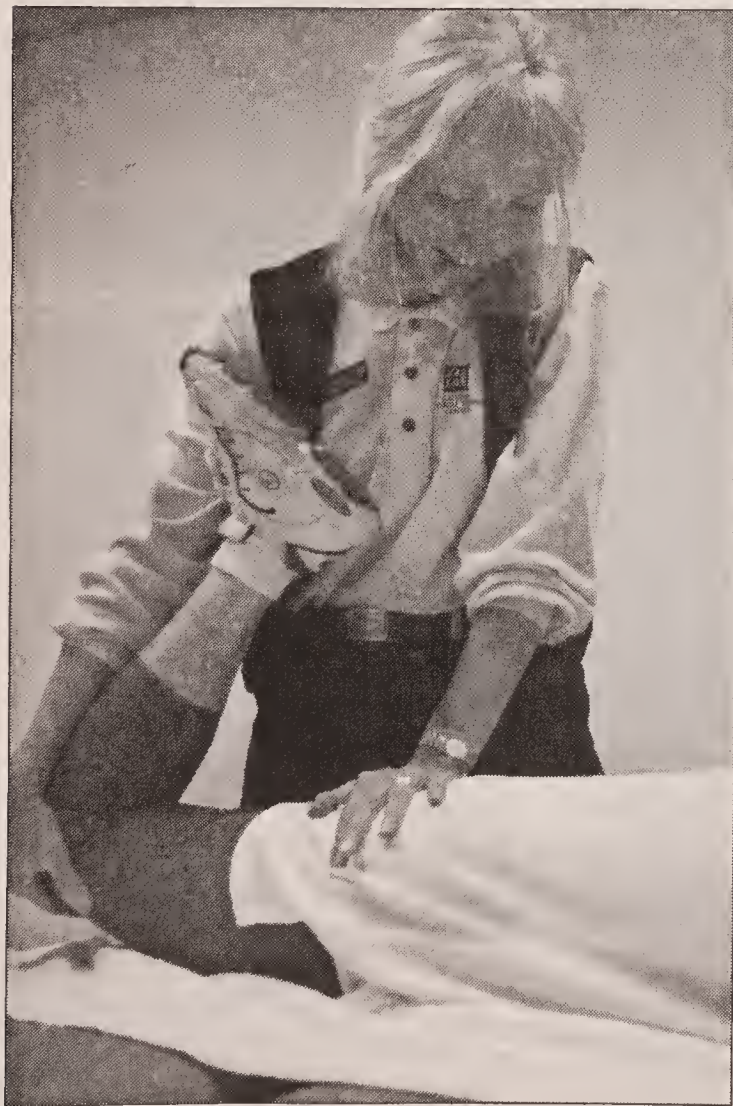
At stake: Whether she can continue to afford to take injured workers as clients if fees are again reduced. Already, Medicare patients are by far more profitable.

er is going to pay, so I'll go ahead without authorization," Wham said. "I can't do that now. All my professional judgment is taken out of the loop. Because my caseload is made up of 60 percent workers' comp, if every client had that kind of delay, I'd have to tell my patients, 'We're going to have to wait.'"

If the state imposes medical guidelines as strict treatment standards, she warns, it will be a disaster.

"They're one-size-fits-all," Wham said. "You can't just say, OK, you're going to get two visits. This is just like the worst, worst, worst of managed care."

— John M. Hubbell

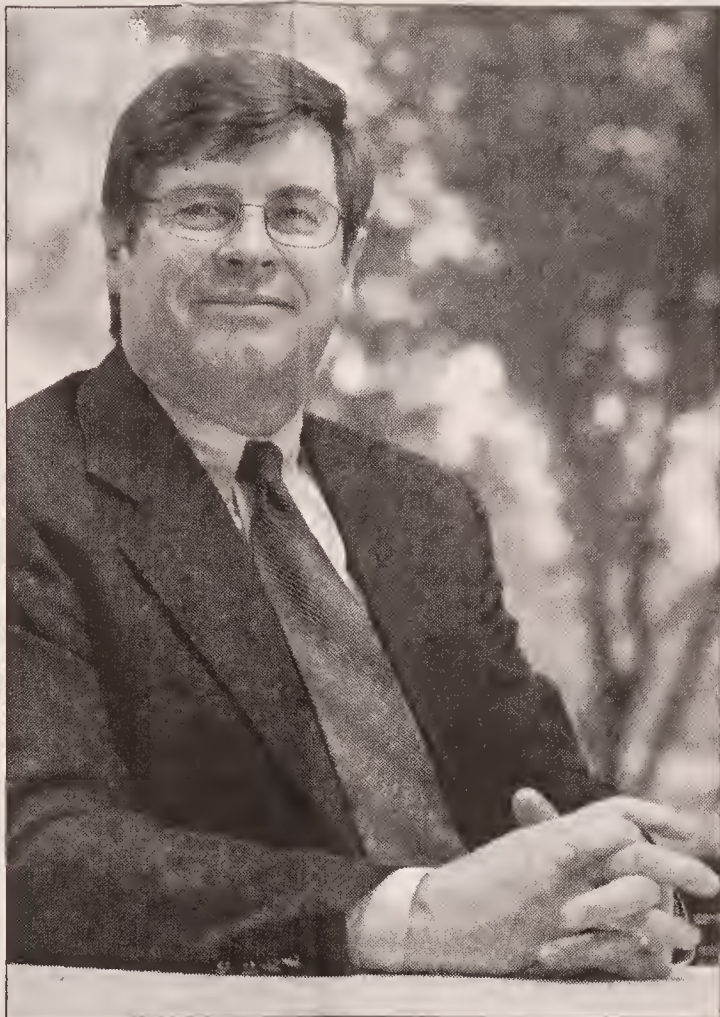


MICHAEL MALONEY / The Chronicle

Physical therapist Robin Wham operates a practice started by her father in 1957. She worries about state-imposed treatment guides.

"California is half of the Safeway workforce, but it accounts for much greater than three-quarters of our workers' compensation expenses."

BILL ZACHRY runs Safeway's workers' compensation program in 22 states



CARLOS AVILA GONZALEZ / The Chronicle

Bill Zachry works at Safeway's headquarters in Pleasanton. He also frequently goes to Sacramento to lobby state legislators.

CORPORATE EXECUTIVE

Pushing legal standards to limit missed work

As the guy who runs Safeway's workers' compensation program in 22 states, Bill Zachry says California's system is plagued by excessive medical and legal costs.

"California is half of the Safeway workforce, but it accounts for much greater than three-quarters of our workers' compensation expenses," said Zachry, who works in Pleasanton and frequently meets lawmakers in Sacramento.

He doesn't blame the workers. "Our frequency of injuries has been dropping for the last five years, in California and across the country. A vast, vast majority of the employees are very good — they don't get injured, and if they do they want to get back to work."

He blames the system. "One of the dangerous parts of the California system is that it disempowers the employees. They end up in the hands of lawyers and doctors who don't encourage them to return to work because that limits their fees."

Zachry said the legislative reforms passed in 2003 will help control medical costs. Now he wants lawmakers to set standards that doctors would have to follow when deciding how long a worker, temporarily disabled by a common injury like a back or wrist sprain, should be out of work.

"In Southern California we're

Bill Zachry, 49, San Carlos

Title: Corporate vice president for workers' compensation

Role: Administers Safeway's worker insurance program.

Friends: California employer groups.

Enemies: Legal and medical lobbies.

Popular fiction: That doctors protect employee interests, while, he says, some "medical providers are abusing our injured workers" with unnecessary treatments.

At stake: Big bucks. Last year, a claim that cost \$63,000 in California cost a third of that amount in Washington, Oregon or Colorado.

looking at 7.5 days, in Northern California it's 8.8 days, and outside California it's 1.3 days," he said.

He also wants to stop lawyers from collecting penalties if an insurer is "unreasonably" late in making payments or providing care. He says workers' compensation judges defined "unreasonable" so broadly that it tied employers' hands.

"What has happened is that the claims adjusters couldn't say no," he said.

— Tom Abate

ATTORNEY

Injured workers' lawyer defends role

Rhetoric has done little to differentiate applicants' attorneys from cash-craving shysters who keep a backup supply of neck braces for their clients.

If it were only all that simple, Jeremy Smith said from his Shattuck Avenue office last week in Berkeley.

"I'm satisfied with the living I'm making, but if it's just about making money, there are much simpler ways," he said. "The work I'm doing brings a lot of stress with it. You're trying to get people to turn their lives around or recover. I feel a lot of responsibility there to steer them in the right direction."

Critics charge that applicants' attorneys — named because they represent the injured worker, or "applicant" making a claim — routinely gum up the system for their own benefit to keep employees off the job for as long as possible and ultimately drive up the costs of claims.

Smith's livelihood dictates otherwise, he said. "I have no interest in seeing (a claim) extended beyond what's necessary, because I don't get paid until the end of the case," he said. "I have four kids."

Reforms could make it far harder for Smith to argue on behalf of injured workers. California could change the expectation for treatment from one that cures and relieves a condition to one that either cures or relieves it, for instance. The distinction would be crucial in the future as Smith argues for further treatment for a client before a state review board. That would hamper a worker's

Jeremy Smith, 44, Berkeley

Title: Private practice applicants' attorney

Role: Representing injured workers as their cases navigate the system.

Friends: Democrats and advocates trying to preserve a significant role for attorneys in the process.

Enemies: Gov. Arnold Schwarzenegger and others who say his profession is gaming the system.

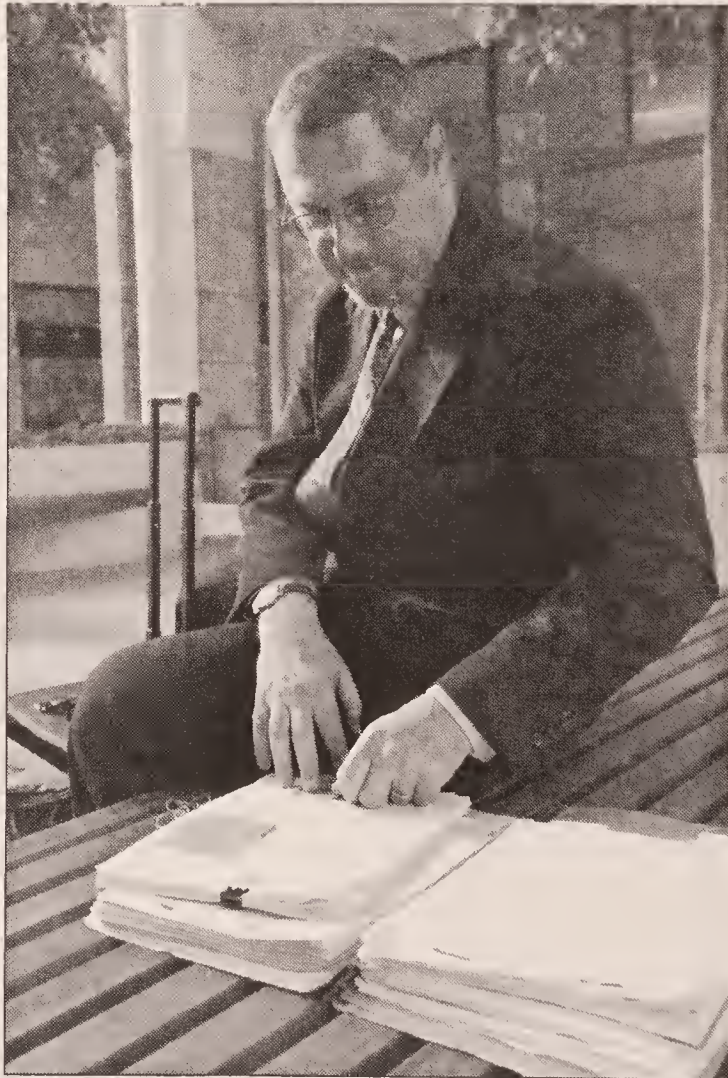
Popular fiction: That applicants' attorneys charge fees that gobble large percentages of their clients' awards. State law allows attorneys to receive only 12 percent to 15 percent of an award; all fees must be approved by a judge.

At stake: His livelihood. Smith's specialty could be wiped out or drastically curtailed by reforms and be replaced by what his association president calls "cookie-cutter justice."

expectation to be treated fairly by the system, Smith said — and only increase their need for help. "It's not fair for injured workers to not have the assistance of someone who does this on a regular basis," he said.

"Workers' comp still relates to . . . less-educated people. They're already behind the eight ball to begin with," he continued. "The changes would push them back. Even my more educated clients have trouble understanding what's happening."

— John M. Hubbell



MICHAEL MALONEY / The Chronicle

Jeremy Smith, who represents workers' comp applicants, looks through papers before making a court appearance.

INSURANCE EXECUTIVE

Workers' comp provider says issue too complex for ballot initiative

Stanley Zax, chairman of Zenith National Insurance, one of California's largest workers' compensation providers, hopes lawmakers pass a reform bill and head off a threatened ballot initiative.

"I've been doing this for 25 years," Zax said. "Anybody who thinks we can have an initiative fight, with 30-second sound bites, on something as complex as workers' compensation, and that anything good will come out of it, is hallucinating."

Zax sits on the Little Hoover Commission, California's independent watchdog agency. Last year, his firm gave \$100,000 to help former Gov. Gray Davis stay in office. "I thought the recall was a terrible precedent," he said.

Though he wants a reform bill, experience makes Zax doubt it would actually restrain costs.

"Go back 10 years," he said. "We had a lot of fraud and a lot of cost increases in the system and a lot of phony psychological claims. The Legislature passed a lot of good laws. . . . It sounds almost oxymoronic to say that, but the costs of the system have continued

"My job is to take whatever system is created and do the best that I can . . ."

STANLEY ZAX
Zenith Insurance Co.

to grow at very high numbers.

"You think just because somebody writes some words on a piece of paper, you wave a magic wand and all these things take place?" Zax said. "It takes some time to see how the culture of this system interprets changes."

Critics say insurers sow such doubt to keep premiums high while they pocket savings. San Francisco labor leader Stan Warren cited Zenith's "tripled profits" in seeking re-regulation of workers' compensation rates last week.

Zax, whose firm wrote 25,900 policies in California worth \$588 million in premiums in 2003, makes no apologies.

Stanley Zax, 66, Woodland Hills

Title: Chairman and president, Zenith National Insurance

Role: Zenith is one of California's largest independent insurers.

Friends: Realistic reformers.

Enemies: Wishful thinkers.

Popular fiction: The "myth that California is a high-cost, low-benefit state, (when) there's a lot of research organizations that will tell you it's a high-benefit state."

At stake: Profit or loss. Zenith stayed in California through the late '90s, when other insurers quit the state or went bankrupt, and now is looking to profit from cost-cutting reforms.

"My job is to take whatever system is created and do the best that I can for my constituencies: my claimants, my customers and my shareholders."

— Tom Abate



RICH PEDRONCELLI / Associated Press 2003

Stanley Zax listens to the testimony by Insurance Commissioner John Garamendi (not pictured) during an industrial relations committee hearing last year at the Capitol in Sacramento.

in color

Pink, black, white:
add some bling
to your spring.



JLO
Straw fedora.
In hot pink. \$46
Sunglasses with clear-
flash lenses. \$45
Heart-hoop earrings.
In pink. \$28

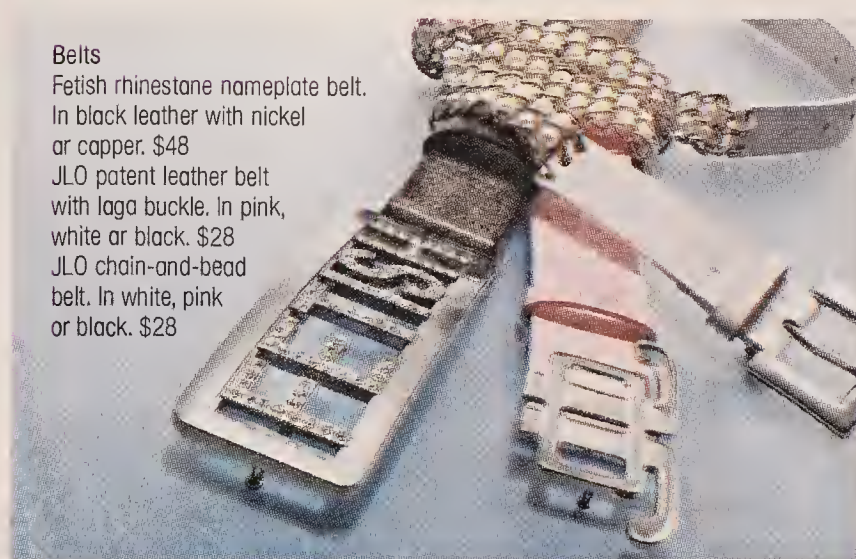


Gwen Stefani L.A.M.B.
for LeSportsac
In white lamb print.
Baby barrel. \$48
Heart wallet. \$36

Fetish 'Crystals
Collection'
Small top-zip bag.
In pink, white, herb
(green) or black. \$70



Belts
Fetish rhinestone nameplate belt.
In black leather with nickel
or copper. \$48
JLO patent leather belt
with logo buckle. In pink,
white or black. \$28
JLO chain-and-bead
belt. In white, pink
or black. \$28



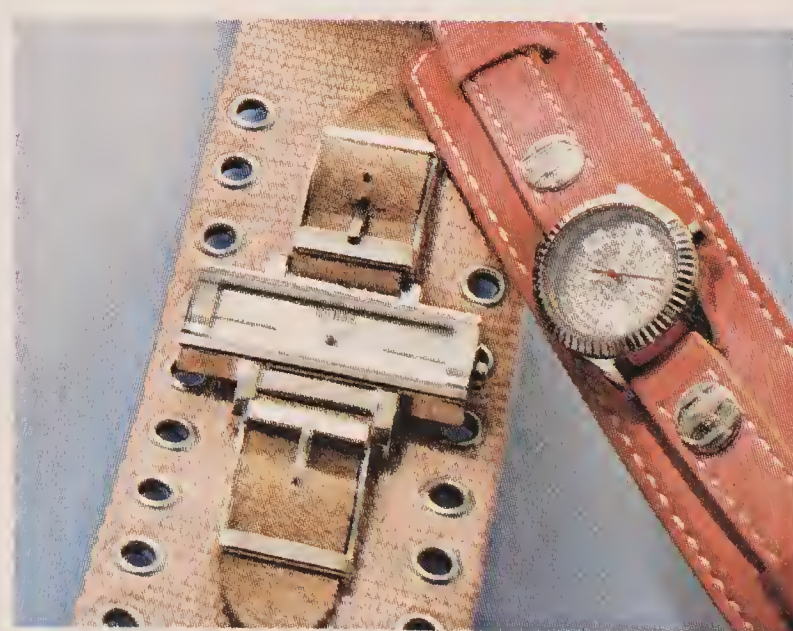
Boby Phat
Cut-out clutch. In black
logo print. \$49



Sunglasses
From left:
Ecka rimless sunglasses with pink lenses. \$45
JLO sunglasses with gray gradient lenses. \$45
Baby Phat sunglasses with rhinestones. \$99
Ecka sunglasses with pink lenses. \$45

Sweetface by JLO
Velour bawler handbag. In pink. \$39

Watches by Guess and Ecko
Guess watch with pink canvas cuff. \$85
Ecko watch with pavé dial and pink
leather cuff. \$65



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